

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10701 of 2022

Arising Out of PS. Case No.-210 Year-2020 Thana- JALE District- Darbhanga

SMT. MITALI CHAKRABORTY W/o Prasenjit Chakraborty Resident of
47/A Semapore Colony, P.O.- Mallickpara, P.S.- Semapore, District- Hugli
(West Bengal). Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ugranath Mallik, Adv
For the Opposite Party/s : Mr.Kanhiya Kishore, APP

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 16-09-2022 The learned counsel for the petitioner is directed to
remove all the defects pointed out by the office within one month.

Heard the learned counsel for the petitioner as well as
the learned Additional Public Prosecutor for the State through
video conferencing.

The petitioner apprehends her arrest in connection with
Jalley P.S. Case No. 210 of 2020, registered for the offence
punishable under section 30 (a) of the Bihar Prohibition and
Excise Act, 2018.

The learned counsel for the petitioner has submitted
that the petitioner is merely owner of the vehicle wherefrom the
alleged liquor was recovered. She is not resident of Bihar, rather
she is resident of West Bengal and she has no concern with the
alleged liquor. She is a lady of clean antecedent.

So far as the maintainability of the bail petition is



concerned, Section 76 (2) of the Bihar Prohibition and Excise Act, 2016 makes an explicit embargo on entertaining the application under Section 438 of the Cr.P.C.

Since the provision of Section 438 of the Cr.P.C. is not applicable in respect of offences under the Bihar Prohibition and Excise Act, 2016, as such, this anticipatory bail application is not maintainable.

If the petitioner surrenders before the court below and makes a prayer for regular bail, that shall be disposed of on the same day without being prejudiced by this order. The learned court below may take notice of the fact that the petitioner is a lady of clean antecedent, she is resident of West Bengal and she is merely owner of the vehicle.

With these observations, this criminal miscellaneous petition is disposed of.

Office shall ensure that all defects are removed by the petitioner within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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