

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11613 of 2022

Arising Out of PS. Case No.-373 Year-2018 Thana- KATEYA District- Gopalganj

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MUKESH YADAV @ MUKESH CHAUDHARY Son of Phagu Yadav @
Phagu Chaudhary Resident of Village - Roop Poiya, P.s.- Kateya, Distt.-
Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Setu Prateek, Adv.

For the Opposite Party/s : Mr.J.N. Thakur, APP

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**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
Mr. J.N. Thakur, the learned Additional Public Prosecutor for the
State through video conferencing.

The petitioner apprehends his arrest in connection with
Kateya P.S. Case No. 373 of 2018, registered for the offence
punishable under sections 30(a), 35, 38 and 37 (c) of the Bihar
Prohibition and Excise Act, 2018.

The learned counsel for the petitioner has submitted
that nothing was recovered from the possession of the petitioner.
The motor cycle wherefrom the illicit liquor was recovered, was
not belonging to him and his name has figured only in the
statement of *Chowkidar*. He is a person 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 person of clean antecedent.

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)

Mahesh/Nirmal

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