

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.12847 of 2022**

Arising Out of PS. Case No.-240 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.  
District- Nalanda

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SAHDEV MAHTO S/o Late Vanshi Mahto Resident of Village- Bilari, P.S.-  
Katrisarai, Nalanda, District- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Kumari Sujata Sinha  
For the Opposite Party/s : Mr.Anand Kishore Choudhary

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

ORAL ORDER

2      21-09-2022                      The learned counsel for the petitioner is directed to  
  
remove all the defects pointed out by the Stamp Reporter within  
  
one month.

Heard the learned counsel for the petitioner and  
  
learned APP for the State.

The petitioner apprehends his arrest for the  
  
offences alleged under Section 30(a) of the Bihar Prohibition  
and Excise Act, registered in connection with Excise P.S.Case  
  
No. 240C3ex/2021.

Learned counsel for the petitioner has submitted that  
  
the petitioner is a person of clean antecedent. He is an old man  
and nothing was recovered from his conscious possession.

Be that as it may, 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. hence it is not maintainable.

If the petitioner surrenders and seeks regular bail before the court below, that shall be disposed of on its own merit 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, the application stands disposed of.

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

**(Nawneet Kumar Pandey, J)**

HR/-

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