

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13077 of 2022

Arising Out of PS. Case No.-277 Year-2021 Thana- KHANPURA District- Samastipur

BIBHISHAN MAHTO @ BIBHISHAN KUMAR @ VIBHISHAN KUMAR
S/o Raghubeer Mahto R/o village- Rewara Jagdishpur, P.S.- Khanpur,
District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ghanshyam Choudhary

For the Opposite Party/s : Mr.Rajendra Prasad Nat

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

ORAL ORDER

2 27-09-2022 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.

The petitioner apprehends his arrest in connection with

Khanpur P.S. Case No. 277 of 2021 registered for the offence

punishable under section 30 (a) of the Bihar Prohibition and

Excise (Amendment) Act, 2018.

The learned counsel for the petitioner has submitted

that the petitioner was not arrested at the spot. His name has

figured in confessional statement of co-accused. He was driver

of the vehicle wherefrom 34 liters of liquor was recovered and



he is a person of clean antecedent.

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.

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 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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