

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12909 of 2022

Arising Out of PS. Case No.-238 Year-2021 Thana- BAIRIYA District- West Champaran

1. SONU CHAUDHARY Son of Bigha Chauhary @ Vidya Chaudhary Resident of Village- Nimiya Tola, Police Station- Bairiya, District- West Champaran.
2. Tufani Chaudhary Son of Bigha Chaudhary @ Vidya Chaudhary Resident of Village- Nimiya Tola, Police Station- Bairiya, District- West Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anant Kumar Mishra
For the Opposite Party/s : Mr.J.N. Thakur

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

2 26-09-2022 The learned counsel for the petitioners is directed to remove all the defects pointed out by the office within one month.

Heard the learned counsel for the petitioners as well as Mr. J. N. Thakur, the learned Additional Public Prosecutor for the State.

The petitioners apprehend their arrest in connection with Bairiya P.S. Case No. 238 of 2021 registered for the offence punishable under section 272, 273 of the Indian Penal Code and section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

The learned counsel for the petitioners has submitted



that the petitioners are innocent and have falsely been implicated in this case.

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 petitioners surrender before the court below and files regular bail petition, that shall be disposed of on the same day without being prejudiced by this order.

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

Office shall ensure that all defects are removed by the petitioners 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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