

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28913 of 2021**

Arising Out of PS. Case No.-89 Year-2021 Thana- SIWAN MUFFASIL District- Siwan

SATISH PANDEY @ SATISH KUMAR PANDEY Son of Late Phuleshwari Pandey, Resident of Village - Bindusar Hamid, P.S.- Muffasil (Siwan), District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manish Kumar Singh
For the Opposite Party/s : Mr. Syed Mojibur Rahman

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

ORAL ORDER

2 29-01-2022 Heard the learned counsel for the petitioner as well as Additional Public Prosecutor for the State through video conferencing.

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

The petitioner apprehends his arrest in connection with Muffasil P.S. Case No. 89 of 2021 registered for the offence punishable under sections 272/273 of the Indian Penal Code and section 30 (a) of the Bihar Prohibition and Excise Act.

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 dismissed, as not maintainable. If the petitioner surrenders and makes prayer for regular bail, the court below shall consider it without being prejudiced by this order as well as the fact that there is no criminal antecedent of the petitioner.

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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