

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29748 of 2021

Arising Out of PS. Case No.-320 Year-2020 Thana- GAUTAMBUDHNAGAR District-
Siwan

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BIRENDRA MAHTO Son of Late Heera Mahto Resident of Village - Gaur
Rauja, P.S. - G.B. Nagar, District - Siwan.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh
For the Opposite Party/s : Mr.A.G.

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

ORAL ORDER

2 31-01-2022 Learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Heard learned counsel for the petitioner as well as the
learned APP for the State through video conferencing.

The petitioner apprehends his arrest in connection
with G.B. Nagar P.S. Case No. 320 of 2020, registered for the
offences punishable under Sections 30(a), 34, 36, 41 (1) of the
Bihar Prohibition and Excise Act, 2016.

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 seeks regular bail before the court below, the court below shall consider the same on its own merit.

Office shall ensure that all defects are removed by the petitioner within the stipulated time provided in para-1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey , J)

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