

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24011 of 2022

Arising Out of PS. Case No.-645 Year-2021 Thana- ALAMGANJ District- Patna

VISHUN RAM @ BISHNU RAM S/o Somaru Ram R/o village- Meena
Bazar, Domkhana, P.S.- Alamganj, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manish Kumar No. 2
For the Opposite Party/s : Mr.Surendra Prasad Singh

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

ORAL ORDER

2 12-10-2022 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
Special Case No. 6077 of 2021, arising out of Alamganj P.S. Case
No. 645 of 2021, registered for offence punishable under sections
30 (a), 37 (c), 38 (2) and 41 (1) of the Bihar Prohibition and Excise
(Amendment) Act, 2018.

The learned counsel for the petitioner has submitted that
the petitioner has no concern with the alleged liquor, nothing was
recovered from his possession, he is a person of clean antecedent and
no independent witness has signed on the seizure list.

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 note of the fact that nothing was recovered from the possession of the present petitioner and he is a person of clean antecedent.

With these observations, this criminal miscellaneous 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)

Mahesh/-

U		T	
---	--	---	--

