

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23964 of 2022

Arising Out of PS. Case No.-417 Year-2021 Thana- LAHERIMUHALLA District- Nalanda

BHARAT BHUSHAN Son of Dashrath Prasad Sah Resident of village - Bela
Chand, P.O.- Mohnea Chakla, P.S.- Banmankhi, District - Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh

For the Opposite Party/s : Mr.Abhay Kumar Roy

**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
Laheri P.S. Case No. 417 of 2021 registered for the offence
punishable under section 30 (a) of the Bihar Prohibition and
Excise Act.

The learned counsel for the petitioner has submitted that
the petitioner has no concern with the vehicle wherefrom the illicit
liquor was recovered, though he was owner of that vehicle, but
prior to the occurrence, he has sold that vehicle to Jagdish Prasad.
He has submitted further that the petitioner 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 and nothing was recovered from his conscious possession and he has already sold his vehicle to someone else.

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)

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