

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32928 of 2021**

Arising Out of PS. Case No.-131 Year-2021 Thana- BARHARA District- Bhojpur

UPENDRA KUMAR @ UPENDRA YADAV @ ASHISH Son of Late Kamta
Yadav Resident of Village- Shaligram Singh Ka Tola, Police Station- Barhara,
District- Bhojpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar

For the Opposite Party/s : Mr.Anand Mohan Prasad Mehta

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

ORAL ORDER

2 02-02-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

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

The petitioner apprehends his arrest for the
offences alleged under Section 141 of the Indian Penal Code
and Section 30(a) of the Bihar Prohibition and Excise Act-2018,
registered in connection with Barahara P.S.Case No. 131 of
2021.

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 the defects are removed by the petitioner within the stipulated time provided hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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