

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23997 of 2022

Arising Out of PS. Case No.-6 Year-2022 Thana- BHANGHA District- West Champaran

KUNTI DEVI W/o Raju Diswa, Resident of Rampur, P.S.- Bhangaha,
District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala

**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 her arrest in connection with
Bhangaha P.S. Case No. 06 of 2022, registered for offence
punishable under sections 272 and 273 of the Indian Penal Code
and Section 30(a) of the Bihar Prohibition and Excise Act.

The learned counsel for the petitioner has submitted that
the petitioner is a lady. She has no criminal antecedent and only six
litres of country-made liquor was recovered from the *Varamada* of
the joint house of the petitioner.

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 lady of clean antecedent and only six litres of country-made liquor was recovered from the *Varamada* of the joint house of the petitioner, which is in open place and accessible to all and sundry.

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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