

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24084 of 2022

Arising Out of PS. Case No.-290 Year-2021 Thana- BRAHMPURA District- Muzaffarpur

RAKESH KUMAR SON OF MR.RAM CHANDRA PRASAD R/O
VILLAGE- PANAPUR, P.S.- MINAPUR, DISTRICT- MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shivam

For the Opposite Party/s : Mr.Raj Ballabh Singh

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

ORAL ORDER

2 13-10-2022 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 learned
APP for the State.

The petitioner apprehends his arrest in connection with
Brahmpura P.S. Case No. 290 of 2021, registered for the offences
punishable under Sections 272, 273, 467, 468, 414 and 120(B)/34 of
the Indian Penal Code.

As per allegation, from the scrap shop of the petitioner a
number of bottles of wine have been recovered.

Learned counsel for the petitioner has submitted that FIR
shows itself that the petitioner owns a shop of scrap and those empty
bottles have been purchased by him in scrap. He has further
submitted that no liquor was recovered from his shop.



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., 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 of its filing, 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 possession. The petitioner has mentioned in paragraph No. 3 of the petitioner that he is a person of clean antecedent. This fact shall be verified by the court below.

With these observations, the criminal miscellaneous petition is disposed of.

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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