

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24097 of 2022

Arising Out of PS. Case No.-707 Year-2021 Thana- AHIYAPUR District- Muzaffarpur

SUNIL SHAHI Son of Ram Lakshan Shahi, Resident of Village - Sahwajpur,
P.S.- Ahiyapur, District – Muzaffarpur. Petitioner/s

Versus

The State of Bihar. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar @ S.K.

For the Opposite Party/s : Mr.Md. Shakir Ahmad
Mr. Shailendra Kumar, APP

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

ORAL ORDER

2 20-10-2022 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
Ahiyapur P.S. Case No. 707/2021, registered for the offence
punishable under sections 171 (H), 188, 272, 273/34 of the Indian
Penal Code and sections 30 (a)/36/37 (C) of the Bihar Prohibition
and Excise Act, 2016.

As per allegation, the petitioner is husband of Mukhiya
candidate, Vandana Devi. In order to allure the voters, he has
arranged liquors and some edibles and 1.5 litres of liquor was
recovered from his shop.

The learned counsel for the petitioner has submitted that
the petitioner is innocent and has falsely been implicated in this



case at the behest of his rivalry. There is no other case of Bihar Prohibition and Excise Act, 2016 against 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 there is no other case of Bihar Prohibition and Excise Act, 2016 against the present petitioner.

With these observations, this 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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