

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33189 of 2021**

Arising Out of PS. Case No.-541 Year-2020 Thana- SIWAN MUFFASIL District- Siwan

MANOJ RAM S/o Hiranman Ram, R/o village- Bhatwaliya, Khalishpur, P.S.-
Siwan Muffasil, Distt.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary

For the Opposite Party/s : Mr. Bishweshwar Ram

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

ORAL ORDER

3 14-02-2022 Heard the learned counsel for the petitioner as well as

Additional Public Prosecutor for the State through video
conferencing.

The learned counsel for the petitioner is directed to
remove all the defects pointed out by the office within one
month.

The petitioner apprehends his arrest in connection with
Siwan Muffasil P.S. Case No. 541 of 2020 registered for the
offence punishable under sections 272 and 273 of the Indian
Penal Code and sections 30 (a) and 41 (i) of the Bihar
Prohibition and Excise Act, 2016.

The learned counsel for the petitioner has submitted
that the petitioner is not named in the FIR and even he has no



concern with the vehicle from which the illicit liquor was recovered.

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 and it is disposed of. At the same time, it is observed that if the petitioner surrenders before the court below and seeks regular bail, his petition for regular bail shall be disposed of on the same day and while disposing of the regular bail petition, the learned court below may take notice of this fact that the petitioner was not named in the FIR and he has no concern with the alleged motor cycle wherefrom the alleged liquor was recovered. **In case the regular bail petition of the petitioner is considered by the court below and in course of investigation it emerges that the petitioner is the owner of the motor cycle wherefrom the alleged liquor was recovered, or if it comes to the knowledge of the court below that the petitioner is not co-operating with the trial, the court below shall be at liberty to cancel the bail bond.**

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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