

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36368 of 2021**

Arising Out of PS. Case No.-217 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Saran

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JAINENDRA KUMAR GUPTA @ JITENDRA KUMAR GUPTA Son of
Kanhaiya Prasad Gupta Resident of Village - Thakur Salen Dahiyawa Tola,
P.S.- Chapra Town, Distt.- Saran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Singh

For the Opposite Party/s : Mr.A.G.

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

ORAL ORDER

2 03-02-2022 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 the

learned APP for the State through video conferencing.

The petitioner apprehends his arrest in connection

with Excise Case No. 217 of 2020, registered for the offences

punishable under Sections 30(a) of the Bihar Prohibition and

Excise Act, 2016.

Learned counsel for the petitioner by drawing my

attention towards seizure list has submitted that the alleged

recovery was not from the house nor from his possession rather



it was recovered from a *machan* situated near the house of the present petitioner.

There is explicit embargo as per provisions of Section 76 (2) of the Bihar Prohibition and Excise Act, 2016 for entertaining the application under Section 438 of the Cr.P.C.

As such, the present anticipatory bail petition is being disposed of as not maintainable.

But at the same time, it is observed that if the petitioner surrenders before the court below, the learned court below may consider his prayer for regular bail petition on the same day and may also notice the fact that the alleged recovery was neither from the house of the petitioner nor from his possession rather it was recovered from a *machan* situated near the house of the petitioner.

Office shall ensure that all defects are removed by the petitioners 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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