

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31013 of 2022

Arising Out of PS. Case No.-27 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Siwan

-
1. RAVINDRA MANJHI Son of Mahavir Manjhi Resident of Village - Ukhai Purvi Patti, P.s.- Saray OP, Distt.- Siwan.
 2. RAJU MAHTO SON OF LATE MAHESH MAHTO Resident of Village - Ukhai Purvi Patti, P.s.- Saray OP, Distt.- Siwan.
 3. DINESH BIND SON OF ASARFI BIND Resident of Village - Ukhai Purvi Patti, P.s.- Saray OP, Distt.- Siwan.
 4. AWADHESH BIND SON OF KEDAR PRASAD Resident of Village - Ukhai Purvi Patti, P.s.- Saray OP, Distt.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh

For the Opposite Party/s : Mr.Madhura Nand Jha

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

2 21-10-2022 The learned counsel for the petitioners is directed to remove all the defects pointed out by the office within one month.

Heard the learned counsel for the petitioners as well as the learned Additional Public Prosecutor for the State through video conferencing.

At the very outset, the learned counsel for the petitioners has submitted that during the pendency of this criminal miscellaneous petition, petitioner no. 1 has been arrested, as such, this criminal miscellaneous petition has



become infructuous with respect to petitioner no. 1. He therefore, seeks permission to withdraw this petition with respect to petitioner no. 1.

In view of above submission, **this criminal miscellaneous petition is dismissed as withdrawn with respect to petitioner no. 1.**

So far as **rest petitioners are concerned**, they apprehend their arrest in connection with Excise Case No. 27 of 2021 registered for the offence punishable under section 30 (a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

The learned counsel for the petitioners has submitted that the petitioners are the persons of clean antecedents and the alleged liquor was not recovered from their conscious possession.

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 petitioners surrender before the court below and



make a prayer for regular bail, that shall be disposed of on the same day without being prejudiced by this order.

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

Office shall ensure that all defects are removed by the petitioners within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

Mahesh/-

U		T	
---	--	---	--

