

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44194 of 2021

Arising Out of PS. Case No.-864 Year-2020 Thana- HAJIPUR SADAR District- Vaishali

Tun Tun Bhagat, an adult male, aged about 45 years, Son of Sri Mahendra Bhagat @ Mahendra Paswan, Resident of Village- Paswan Chowk Pehiskurva, Police Station- Industril Area, District- Vaishali (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saket Gupta, Advocate

For the Opposite Party/s : Ms. Sharda Kumari, APP

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

ORAL ORDER

2 11-04-2022 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 Hajipur Sadar P.S. Case No. 864 of 2020 registered for offence punishable under Sections 414 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act., 2016.

As per the allegation, two persons Manoj Rai and



Ram Pravesh Rai were carrying illicit liquor by motorcycle mentioned in the FIR, on seeing the police, they became successful in fleeing away.

Learned counsel for the petitioner has submitted that petitioner is not named in the FIR, co-accused Manoj Rai and Ram Pravesh Rai, named the present petitioner who has been implicated merely because he is the owner of the motorcycle, from which the liquor was recovered.

Be that as it may, the provisions as per Section 76(2) of the Bihar Prohibition and Excise Act, 2016 and the provisions of Section 438 of the Code of Criminal Procedure, 1973 are not applicable in the cases registered under Bihar Prohibition and Excise Act, 2016, as such this anticipatory bail application is not maintainable.

If the petitioner surrenders before the Court below and file regular bail, the learned Court below shall consider on its own merits on the same day. The learned Court below may take notice of the fact that the name of the petitioner is not figured in the FIR and he is a person of clean antecedents.

With these observations, this anticipatory bail application is being dismissed, as not maintainable.

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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