

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45212 of 2021

Arising Out of PS. Case No.-180 Year-2021 Thana- BARHIYA District- Lakhisarai

RAJ KUMAR @ RAJ KUMAR SINGH Son of Late Upendra Singh,
Resident of Village - Gardh Laxmipur, P.S.- Barahiya, Distt.- Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Parmanand Pd. Nr. Sahi
		Mr. Rajesh Kumar
For the Opposite Party/s :		Mr.Sanjay Kumar Tiwary

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

ORAL ORDER

2 12-04-2022 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 Mr. Sanjay Kumar Tiwary, the learned Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection with Barahiya P.S. Case No. 180 of 2021 registered for the offence punishable under section 30 (a) of the Bihar Prohibition and Excise Act, 2018.

The learned counsel for the petitioner has submitted that the alleged liquor was recovered from the bamboo clumps of Shambhu Singh and the persons assembled there disclosed



the name of the present petitioner. He has submitted further that except suspension, there is nothing against the present petitioner

So far as the maintainability of the bail petition is concerned, 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 dismissed, as not maintainable, with the observation that if the petitioner surrenders before the court below and files regular bail petition, that shall be disposed of without being prejudiced of this order and considering the fact that the name of the present petitioner has been arrayed only on the basis of suspicion and he is a person of clean antecedent.

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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