

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46003 of 2021**

Arising Out of PS. Case No.-300 Year-2021 Thana- FORBESGANJ District- Araria

MD. SARFARAJ Son of Md. Hasim, Resident of Village - Pokher Basti Ward
no.21, P.S.- Farbisganj, Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Amar Anand Mr. Arun Kumar Tiwary Prashanti Kumari
For the Opposite Party/s :		Mr.Umanath Mishra

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

ORAL ORDER

2 15-04-2022 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 through video conferencing.

The petitioner apprehends his arrest in connection with Forbisganj P.S. Case No. 300 of 2021 registered for the offence punishable under section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

68 bottles of cough syrup were recovered from the medical store of the present petitioner.

The learned counsel for the petitioner has submitted that the petitioner is licensee of medical store and he has purchased the cough syrup for sale for the medical purposes. He has submitted further that the petitioner is a person of clean



antecedent. The invoices of purchase of medicine have been annexed with the record.

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 not maintainable. Accordingly, it is dismissed with the observation that if the petitioner surrenders before the court below and makes a prayer for regular bail, it shall be disposed of on the same day without being prejudiced by this order and also considering the fact that the petitioner is bona fide licensee of medical shop 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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