

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47069 of 2021**

Arising Out of PS. Case No.-450 Year-2020 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

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RAGHUNATH PANDIT S/o LATE KHOBHARI PANDIT R/o VILLAGE-
CHAPRA DHARAMPUR, P.S-TURKI, DISTRICT-MUZAFFARPUR.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Ravi Ranjan, Adv.
For the Opposite Party/s : Mr.Dinesh Singh, APP

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

ORAL ORDER

5 12-07-2022 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 learned
APP for the State.

The petitioner apprehends his arrest in connection with
Muzaffarpur Sadar P.S. Case No. 450 of 2020, registered for the
offences punishable under Sections 30(a) of the Bihar Prohibition
and Excise Act.

Learned counsel for the petitioner has submitted that
petitioner is only owner of the tempo whereby illicit liquor was being
transported. The petitioner was not arrested at the spot rather one co-
accused Ranjan Mahto was arrested. He has submitted further that
even the arrested person Ranjan Mahto did not name the present
petitioner rather he has named co-accused Aman Kumar. During



investigation it was detected that the petitioner is bona fide owner of the alleged tempo.

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 dismissed as not maintainable.

If the petitioner surrenders before the court below and seeks regular bail, his bail application shall be disposed of on the same day without being prejudiced by this order. The learned court below may take notice of the fact that the petitioner is bona fide owner of the vehicle. He was not arrested at the spot and he is a person of clean antecedents.

Office shall ensure that all defects are removed by the petitioner 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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