

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47104 of 2021**

Arising Out of PS. Case No.-37 Year-2021 Thana- BHANGWANPUR HAT District- Siwan

GANESH CHAUDHARI S/o LATE SHIVNATH CHAUDHARI, R/o
VILLAGE-BACHAHAN ALIMARDANPUR, P.S-BHAGWANPUR HAT,
DISTRICT-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.Nityanand

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

ORAL ORDER

3 06-07-2022 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

Bhagwanpur P.S. Case No. 37 of 2021 registered for the offence

punishable under sections 30 (a), 36, 41 (1) of the Bihar

Prohibition and Excise Act, 2016.

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.

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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