

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48109 of 2021

Arising Out of PS. Case No.-162 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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KARU MALLAH @ AVINASH MALLAH Son of Tezan Mallah @ Surjdeo
Mallah Resident of Village - Baiju Bigha, Tola Mallah Toil, P.S.- Gurua,
District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sudhir Kumar Sinha

For the Opposite Party/s : Mr.Rabindra Kumar

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

ORAL ORDER

2 18-05-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Heard the learned counsel for the petitioner and
learned APP for the State.

The petitioner apprehends his arrest for the
offences alleged under Section 30(a) of the Bihar Prohibition
and Excise (Amendment), 2018, registered in connection with
Excise Case No. 162 of 2021.

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 and seeks regular bail before the court below, the same shall be considered and disposed of on its own merit, without being prejudiced by this order. The learned court below may also take notice of the fact that liquor was not recovered from the possession of the petitioner, rather it was recovered from a bush and the petitioner is a person of clean antecedents.

Office shall ensure that all the 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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