

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47844 of 2021

Arising Out of PS. Case No.-172 Year-2021 Thana- HATHUA District- Gopalganj

CHANDAN YADAV @ CHANDAN KUMAR YADAV S/o LOHAN
YADAV @ RAJENDRA CHOUDHARY R/o VILLAGE-MAJIRWA KALA,
P.S-FULWARIYA, DISTRICT-GOPALGANJ.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhramveer

For the Opposite Party/s : Mr.Braj Kishore Pd.(App)

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

ORAL ORDER

3 26-09-2022 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) Act, 2018, registered in connection
with Hathua P.S.Case No. 172 of 2021.

Learned counsel for the petitioner has submitted that
the petitioner was not arrested at the spot. There is no criminal
antecedent of similar nature of case against the petitioner and
the vehicle wherefrom the liquor was recovered was not



belonging to the petitioner.

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. hence it is not maintainable.

If the petitioner surrenders and seeks regular bail before the court below, that shall be disposed of on its own merit on the same day, without being prejudiced by this order. The learned court below shall take notice of the fact that there is no criminal antecedent of similar nature of case against the petitioner and he is neither the driver nor the owner of the vehicle wherefrom the alleged liquor was recovered.

With these observations, the application stands disposed of.

Office shall ensure that all the defects are removed by the petitioner within the stipulated time provided hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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