

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46473 of 2022

Arising Out of PS. Case No.-100 Year-2022 Thana- SATHI District- West Champaran

1. AMOD PASAWAN @ AMOD PASWAN @ RAUKY RAJ SON OF VIKAU PASAWAN R/O VILLAGE- WARD NO.-08, SOMGARH, P.S.- SATHI, DISTRICT- WEST CHAMPARAN
2. SHIV NARAYAN PASWAN @ SHIVNARAYAN PASWAN SON OF YOGENDRA PASWAN R/O VILLAGE- WARD NO.-08, SOMGARH, P.S.- SATHI, DISTRICT- WEST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Kumar Gupta
For the Opposite Party/s : Mr.Ram Bilash Roy Raman

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

2 28-09-2022 The learned counsel for the petitioners is directed to remove all the defects pointed out by the office within one month.

Heard the learned counsel for the petitioners as well as the learned Additional Public Prosecutor for the State.

At the very outset, the learned counsel for the petitioners has submitted that during the pendency of this criminal miscellaneous petition, petitioner no. 2 has been arrested, as such, this criminal miscellaneous petition has become infructuous with respect to petitioner no. 2. He therefore, seeks permission to withdraw this petition with



respect to petitioner no. 2.

In view of above submission, **this criminal miscellaneous petition is dismissed as withdrawn with respect to petitioner no. 2.**

So far as **petitioner no. 1 is concerned**, he apprehends his arrest in connection with Sathi P.S. Case No. 100 of 2022 registered for the offence punishable under sections 272 and 273 of the Indian Penal Code and section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

As per allegation, 5 litres of liquor was recovered from the house of the petitioner.

The learned counsel for the petitioner has submitted that the petitioner is a person of clean antecedent.

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 not maintainable.

If petitioner no. 1 surrenders before the court below and makes a prayer for regular bail, that shall be considered on



the same day without being prejudiced by this order. The learned court below may take notice of the fact that the petitioner is a person of clean antecedent.

With these observations, this criminal miscellaneous petition is disposed of.

Office shall ensure that all defects are removed by the petitioners 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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