

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56575 of 2021

Arising Out of PS. Case No.-437 Year-2020 Thana- SIWAN MUFFASIL District- Siwan

GUDDU KUMAR S/o Aklu Mahto R/o village- Mahua Singh Rai, P.S.-
Mahua, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary, Adv.

For the Opposite Party/s : Mr.Kanhaiya Kishore (APP 100)

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

ORAL ORDER

2 04-07-2022 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
Siwan Muffasil P.S. Case No. 437 of 2020 registered for the
offence punishable under sections 272 and 273 of the Indian Penal
Code and section 30 (a) and 38 (i) and 41 (i) of the Bihar
Prohibition and Excise Act, 2016.

The learned counsel for the petitioner has submitted that
the petitioner is the bona fide owner of Maruti Suzuki vehicle.
Co-accused persons had hired the vehicle of the petitioner for
marriage party and from the said vehicle, 40 litres liquor was
recovered. He has submitted further that the petitioner has no



concern with the alleged liquor and he is not named in the FIR, but has been arrayed on the basis of confessional statement of co-accused persons, who were arrested at the spot.

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. As such, this anticipatory bail application is not maintainable and it is disposed of. At the same time, it is observed that if the petitioner surrenders before the court below and makes prayer for regular bail, his petition for regular bail shall be disposed of on the same day without being prejudiced by this order. While disposing of the regular bail petition, the learned court below may take notice of the fact that the petitioner is a bona fide owner of the vehicle, he was not arrested at the spot and he is a person of clean antecedent.

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)

Mahesh/Aditi

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