

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56554 of 2021

Arising Out of PS. Case No.-341 Year-2020 Thana- BOCHAHAN District- Muzaffarpur

1. SHYAM RAY Son of Mahendra Ray Resident of Village - Rudahan Sanathi, P.S.- Bochahan, Distt. - Muzaffarpur.
2. PRAMOD RAY Son of Yogendra Ray Resident of Village - Rudahan Sanathi, P.S.- Bochahan, Distt. - Muzaffarpur.
3. UMESH RAY Son of Yogendra Ray Resident of Village - Rudahan Sanathi, P.S.- Bochahan, Distt. - Muzaffarpur.
4. RAKESH RAY Son of Yogendra Ray Resident of Village - Rudahan Sanathi, P.S.- Bochahan, Distt. - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hari Kishore Thakur

For the Opposite Party/s : Mr.Tapeshwar Sharma

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

ORAL ORDER

3 05-09-2022 The learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

The learned counsel for the petitioners seeks permission to withdraw this anticipatory bail application as against petitioner no.4.

Permission is accorded. The application is accordingly **dismissed as withdrawn as against petitioner no.4.**

Petitioner nos. 1, 2 and 3 apprehend their arrest for



the offences alleged under Section 30(a) of the Bihar Prohibition and Excise Act, registered in connection with Bochahan P.S.Case No. 341 of 2020.

As per allegation, 33 litres of liquor was recovered from a bamboo orchard.

Learned counsel for the petitioners has submitted that nothing was recovered from the possession of the petitioners and they are persons of clean antecedents. He has submitted further that some accused persons have been granted regular bail.

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 petitioner nos. 1, 2 and 3 surrender and seek 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 may take notice of the fact that nothing was recovered from the possession of the petitioners and they are persons of clean antecedent.

With these observations, the application stands disposed of.



Office shall ensure that all the defects are removed by the petitioners 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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