

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61475 of 2021

Arising Out of PS. Case No.-138 Year-2021 Thana- FULKAHA District- Araria

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RUPESH KUMAR @ CHUNNU YADAV Son of Ramesh Yadav, R/o
Village- Mirzapur, Ward No. -02, P.S.- Fulkaha, District- Araria, Bihar.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nishant Kumar Sinha

For the Opposite Party/s : Ms.Rina Sinha

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

ORAL ORDER

2 13-07-2022 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
Fulkana P.S. Case No. 138/2021 registered for the offence
punishable under sections 30 (a) and 41 (1) of the Bihar
Prohibition and Excise Act, 2016.

The learned counsel for the petitioner has submitted that
the petitioner is a person of clean antecedent, he was not arrested
at the spot and his name has figured in confessional statement of
co-accused Krishna Yadav, who was arrested at the spot with a
motor cycle wherefrom 76 litres of illicit liquor was being
transported.



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 Code of Criminal Procedure. As such, this anticipatory bail application is not maintainable.

If the petitioner surrenders before the court below and makes a prayer for regular bail, that shall be disposed of on its own merit 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 person of clean antecedent and his name has figured in confessional statement of co-accused Krishna Yadav.

With these observations, this petition is disposed of.

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)

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