

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61416 of 2021

Arising Out of PS. Case No.-24 Year-2021 Thana- DIGHWARA District- Saran

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BABLU RAI @ BABLU KUMAR S/O RAMESH RAI R/o village- Isupur
(Nawal Tola), P.S.- Dighwara, District- Saran at Chapra

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Dewendra Narayan Singh
For the Opposite Party/s : Mr.Pronoti Singh

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

ORAL ORDER

2 13-07-2022 Learned counsel for the petitioner is directed to remove
all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioner as well as the
learned APP for the State.

The petitioner apprehends his arrest in connection with
Dighwara P.S. Case No. 24 of 2021, registered for the offences
punishable under Sections 272, 273 of the Indian Penal Code and
30(a), 38, 41 (i) of the Bihar Prohibition and Amendment Excise Act,
2016.

Learned counsel for the petitioner has submitted that the
petitioner was not arrested at the spot. Nothing was recovered from
his possession and his name was figured in the confessional
statement of co-accused Vikash Kumar.

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 dismissed as 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. Learned court below may take notice of the facts that the petitioner is a person of clean antecedents. Nothing was recovered from his possession and his name has figured in the confessional statement of co-accused.

Office shall ensure that all defects are removed by the petitioner within the stipulated time provided in para-1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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