

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51600 of 2022

Arising Out of PS. Case No.-963 Year-2021 Thana- KUDHNI District- Muzaffarpur

SHANKAR MISTRI SON OF LATE BACHAN MISTRI @ BECHAN
SHARMA R/O VILLAGE- DEVI BIGHA, P.S.- KARPI (SAHAR TELPA
O.P.), DISTRICT- ARWAL

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar Tiwari

For the Opposite Party/s : Mr.Anand Kishore Choudhary

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

ORAL ORDER

2 30-09-2022 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
Kudhani P.S. Case No. 963 of 2021 registered for the offence
punishable under sections 272, 273, 467, 468, 120 (B)/34 of the
Indian Penal Code and 30 (a) of the Bihar Prohibition and
Excise (Amendment) Act, 2018.

The learned counsel for the petitioner has submitted
that the petitioner is owner of the vehicle wherefrom the illicit
liquor was recovered but that vehicle was stolen away and in



this regard already a case has been filed.

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 the petitioner surrenders before the court below and makes a prayer for regular bail, that shall be disposed of on the same day without being prejudiced by this order.

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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