

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63116 of 2021**

Arising Out of PS. Case No.-375 Year-2017 Thana- TEKARI District- Gaya

MUNNA YADAV S/O JAGDISH YADAV R/o village- Malsari, P.S.- Tekari,
District- Gaya

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vinod Kumar, Adv.

For the Opposite Party/s : Ms.Renu Kumari, APP

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

ORAL ORDER

3 21-09-2022 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 Ms. Renu Kumari, the learned Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection with Tekari (Panchanpur) P.S. Case No. 375 of 2017, registered for the offence punishable under section 30 (a) (c) (d) 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. Ten liters of liquor was recovered from the bank of *Jamune* river and nothing was recovered from the possession of the petitioner.



So far as the maintainability of the bail petition is concerned, 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. The learned court below may take notice of the fact that the petitioner is a person of clean antecedent and nothing was recovered from his possession.

With these observations, this criminal miscellaneous 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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