

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63158 of 2021

Arising Out of PS. Case No.-127 Year-2021 Thana- PIPRAHI District- Sheohar

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LALBABU YADAV @ LALBABU RAY Son of Late Rajdhari Ray, Resident
of Village - Ambakala, P.S.- Piprahi, District – Sheohar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Devendra Kumar, Adv.
For the Opposite Party/s : Ms. Sangeeta Sharma, APP

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

ORAL ORDER

2 19-07-2022 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
Piprahi P.S. Case No. 127/2021 registered for the offence
punishable under section 30 (a) of the Bihar Prohibition and
Excise Act, 2016.

The learned counsel for the petitioner has submitted that
three litres of liquor was recovered from the possession of
co-accused and he disclosed the name of the petitioner. There is
nothing against the petitioner except confessional statement of
co-accused. He has submitted further that the petitioner is a person
of clean antecedent, as mentioned in paragraph 3 of the bail



petition.

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, the learned court below shall dispose of his regular bail petition on the same day. The learned court below may take notice of the fact that nothing was recovered from the possession of the petitioner and he is a person of clean antecedent.

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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