

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63730 of 2021

Arising Out of PS. Case No.-7 Year-2021 Thana- RAIYAM District- Darbhanga

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KAILASH YADAV @ KAILASH KUMAR YADAV S/o Munshi Yadav
Resident of Village- Koyalasthan, P.S.- Keoti, District- Darbhanga.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nawal Kishor Prasad
For the Opposite Party/s : Mr.Dr. Kumar Uday Pratap

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

ORAL ORDER

2 19-05-2022 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

Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection with

Raiyam P.S. Case No. 07 of 2021 registered for the offence

punishable under section 30 (a) of the Bihar Prohibition and

Excise Act.

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 dismissed, as not maintainable.

If the petitioner surrenders before the court below and makes a prayer for regular bail, that shall be considered on its own merit without being prejudiced by this order. The learned court below may take notice of the fact that the petitioner is not named in the FIR and he is a person of clean antecedent and he is only owner of the vehicle wherefrom the liquor was recovered. ,

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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