

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66391 of 2021

Arising Out of PS. Case No.-204 Year-2021 Thana- SIWAN MUFFASIL District- Siwan

1. RAJU RAM @ RAJU KUMAR RAM Son of Hiranman Ram Resident of Village - Bhatwalia, P.S. - Siwan Mufassil, District - Siwan.
2. RAJU RAM @ RAJU KUMAR Son of Mahesh Ram Resident of Village - Bhatwalia, P.S. - Siwan Mufassil, District - Siwan.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh

For the Opposite Party/s : Mr.Tapeshwar Sharma

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

2 25-07-2022 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

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

The petitioners apprehend their arrest in connection with Siwan Muffasil Case No. 204 of 2021, registered for the offences punishable under Sections 272, 273 of the Indian Penal Code and 30(a), 41 (1) of the Bihar Prohibition and Amendment Excise Act, 2018.

Learned counsel for the petitioners has submitted that the illicit liquor was not recovered from the conscious possession of the petitioners rather it was recovered from the bush.

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 and seeks regular bail before the court below, the court below shall consider the same on its own merit. The learned court may take notice of this fact that the petitioners are the persons of clean antecedents and the alleged liquor was not recovered from their conscious possession rather it was recovered from the bush.

Office shall ensure that all defects are removed by the petitioners 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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