

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68349 of 2021

Arising Out of PS. Case No.-297 Year-2021 Thana- NAUTAN District- West Champaran

1. UPENDRA YADAV Son of Baiju Yadav @ Baidhnath Yadav Resident of Village - Bariyarpur, P.S.- Nautan , Distt.- West Champaran.
2. Anand Yadav @ Anand Mohan Yadav Son of Shankar Yadav @ Shankar Prasad Resident of Village - Bariyarpur, P.s.- Nautan, Distt.- West Champaran (As per FIR), and Resident of Village - Kalan, P.S.- Nautan, Dist.- West Champaran (As Per Adhar Card).
3. Santosh Yadav @ Shantosh Kumar Son of Mukhtar Yadav Resident of Village - Bariyarpur, P.s.- Nautan, Distt.- West Champaran (As per FIR), and Resident of Village - Kalan, P.S.- Nautan, Dist.- West Champaran (As Per Adhar Card).
4. Krishna Yadav Son of Birchha Yadav @ Briksha Yadav Resident of Village - Bariyarpur, P.s.- Nautan, Distt.- West Champaran (As per FIR), and Resident of Village - Kalan, P.S.- Nautan, Dist.- West Champaran (As Per Adhar Card).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Brij Kishor Mishra
For the Opposite Party/s : Mr.Rita Verma

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

ORAL ORDER

2 26-07-2022 The learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard the learned counsel for the petitioners and learned APP for the State.

The petitioners apprehend their arrest for the offences alleged under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, registered in connection with Nautan P.S.Case No. 297 of 2021.

Learned counsel for the petitioners has submitted that



the alleged illicit wine was not recovered from the conscious possession of the petitioners, rather it was recover from a sugarcane field. He has submitted further that petitioners are persons of clean antecedent.

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., hence the application is disposed of as not maintainable.

If the petitioners surrender and seek regular bail before the court below, that shall be disposed of on the same day, without being prejudiced by this order. The learned court below may take notice of the fact that petitioners are persons of clean antecedent and nothing was recovered from their conscious possession.

Office shall ensure that all the defects are removed by the petitioner within the stipulated time provided hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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