

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.69379 of 2021**

Arising Out of PS. Case No.-174 Year-2021 Thana- PALIGANJ District- Patna

SANTOSH KUMAR Son of Chandra Shekhar Yadav, Resident of Village -  
Dih Pali, P.S.- Paliganj, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Vijay Kumar Singh

For the Opposite Party/s : Mr.Md. Iftekhar Mahmood

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

ORAL ORDER

2      27-07-2022                      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  
Paliganj P.S. Case No. 174 of 2021 registered for the offence  
punishable under section 420 of the Indian Penal Code and  
sections 30 (a), 37 (b) (c) of the Bihar Prohibition and Excise  
Act, 2018.

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 disposed of on its own merit without being prejudiced by this order.

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)**

Mahesh/-

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