

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.111 of 2022

Arising Out of PS. Case No.-280 Year-2021 Thana- BAIKUNTHPUR District- Gopalganj

1. BIRENDRA RAI @ BIRENDRA KUMAR RAI Son of Vishwanath Rai
Resident of Village - Pakaha, P.S.- Baikunthpur, Distt.- Gopalganj.
2. Shyam Babu Rai Son of Kisun Ray Resident of Village - Sitalpur, P.S.-
Baikunthpur, Distt.- Gopalganj.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shyameshwar Kumar Singh

For the Opposite Party/s : Mr.Suman Kumari Singh

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

ORAL ORDER

2 01-08-2022 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 Sections 30(a) and 41 of the Bihar

Prohibition and Excise (Amendment) Act, 2018, registered in

connection with Baikunthpur P.S.Case No. 280 of 2021.

The learned counsel for the petitioners has submitted

that, though petitioners are named in the FIR, but nothing was

recovered from their conscious possession. The illicit liquor was

recovered from a sugarcane field. 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 it is 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 illicit liquor was not recovered from the conscious possession of the petitioners rather it was recovered from a sugarcane field and the petitioners are persons of clean antecedents.

With these observations, the application stands disposed of.

Office shall ensure that all the defects are removed by the petitioners 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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