

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1301 of 2022

Arising Out of PS. Case No.-285 Year-2021 Thana- MADANPUR District- Aurangabad

1. RAM PRASAD YADAV S/o Late Ganpat Yadav R/o Village - Gaival Bigha, P.S.- Madanpur, District- Aurangabad (Bihar).
2. Yogendra Kumar Yadav S/o Ram Prasad Yadav R/o Village - Gaival Bigha, P.S.- Madanpur, District- Aurangabad (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar

For the Opposite Party/s : Mr.Pushpa Sinha

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

ORAL ORDER

2 03-08-2022 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Learned counsel for the petitioners has submitted that petitioner no.2 has been arrested during the pendency of the anticipatory bail application and, as such, the same has become infructuous. He, therefore, seeks permission to withdraw the application as against petitioner no.2.

Permission is accorded. The application is accordingly dismissed as withdrawn as **having become infructuous as against petitioner no.2.**

Petitioner no.1 apprehends his arrest for the



offences alleged under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018, registered in connection with Madanpur P.S. Case No. 285 of 2021.

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 petitioner no.1 surrenders and seeks regular bail before the court below, that shall be disposed of on its own merit without being prejudiced by this order.

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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