

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.28930 of 2021**

Arising Out of PS. Case No.-205 Year-2020 Thana- WARISNAGAR District- Samastipur

=====

SANDEEP KUMAR S/O KAPILDEO RAI, RESIDENT OF VILLAGE-  
MUKTAPUR, POLICE STATION-KALYANPUR, DISTRICT-  
SAMASTIPUR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

=====

**Appearance :**

For the Petitioner/s : Mr.Pramod Kumar Singh

For the Opposite Party/s : Ms.Sangeeta Sharma

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

ORAL ORDER

5      17-01-2023                      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  
  
Warisnagar P.S. Case No. 205 of 2020 registered for the offence  
  
punishable under section 30 (a) of the Bihar Prohibition and  
  
Excise Act, 2016.

The learned counsel for the petitioner has submitted  
  
that the petitioner was not arrested at the spot, nothing was  
  
recovered from his possession, he is a person of clean  
  
antecedent and his name has figured in confessional statement



of co-accused.

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 not maintainable.

If the petitioner surrenders before the court below and makes a prayer for regular bail, that shall be disposed of on the same day without being prejudiced by this order.

With these observations, this petition is disposed of.

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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