

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30176 of 2022**

Arising Out of PS. Case No.-112 Year-2021 Thana- KUTUMBA District- Aurangabad

SHIV KUMAR PRAJAPATI SON OF GANESH PRAJAPATI R/O
VILLAGE- TAMSİ TOLA, KUMHAR VIGHA, P.S.- KUTUMBA,
DISTRICT- AURANGABAD

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amit Anand

For the Opposite Party/s : Mr.Parmanand Kumar

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

ORAL ORDER

3 02-02-2023 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
Kutumba P.S. Case No. 112 of 2021 registered for the offence
punishable under section 30 (a) of the Bihar Prohibition and
Excise (Amendment) Act, 2018.

The learned counsel for the petitioner has submitted
that the petitioner is merely a *Tempo* driver wherefrom the illicit
liquor was recovered and he is a person 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.

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.

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)

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