

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43283 of 2022

Arising Out of PS. Case No.-92 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Madhepura

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ABHISHEK KUMAR Son of Sri Mukesh Kumar @ Mukesh Kumar Yadav
@ Mukesh Yadav Resident of Village - Novtoliya, ward No.01, P.s.-
Madhepura, Distt.- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pawan Kumar

For the Opposite Party/s : Mr.Shailendra Kumar

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

ORAL ORDER

3 12-01-2023 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 Mr.
Shailendra Kumar, the learned Additional Public Prosecutor for the
State.

The petitioner apprehends his arrest in connection with
Excise P.S. Case No. 92 of 2022, registered for the offence
punishable under section 30 (a) of the Bihar Prohibition and Excise
(Amendment) Act, 2018.

As per allegation, 22 litres of liquor was recovered from the
land belonging to the petitioner.

The learned counsel for the petitioner has submitted that
the petitioner was not in possession of the land 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 without being prejudiced by this order. The learned court below may take notice of the fact that the petitioner is a person of clean antecedent and the land, wherefrom the illicit liquor was recovered, was not in conscious possession of the petitioner.

With these observations, this criminal miscellaneous 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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