

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58822 of 2022

Arising Out of PS. Case No.-56 Year-2021 Thana- RISIYAP District- Aurangabad

SHANKAR RAVIDAS S/o- Nanku Ravidas R/o Village- House No.- 2,
Ravidas Tola, Gomina, Near Shiv Mandir, Karmamatand, Bari dari, Bokaro,
Jharkhand

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Rupa Kumari

For the Opposite Party/s : Ms.Sucheta Yadav

**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 the
learned Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection with
Risiyap P.S. Case No. 56 of 2021, registered for the offence
punishable under sections 420, 120B of the Indian Penal Code and
section 30 (a) of the Bihar Prohibition and Excise Act, 2018.

The learned counsel for the petitioner has submitted that
the name of the petitioner has figured in confessional statement of
co-accused and except that there is nothing against him. He has
submitted further that the illicit wine has not been recovered from the
possession of the petitioner 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 nothing was recovered from his possession.

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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