

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68758 of 2023

Arising Out of PS. Case No.-264 Year-2022 Thana- RANIYATALAB District- Patna

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UMESH MANJHI S/O LATE KAMESHWAR MANJHI R/O VILLAGE-
RAGHOPUR, MUSAHARI, P.S- RANI TALAB, DISTT.- PATNA.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar

For the Opposite Party/s : Mr.Nitya Nand Tiwary

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

ORAL ORDER

2 02-11-2023 Heard the learned counsel for the petitioner as well as the
learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection with
Rani Talab P.S. Case No. 264 of 2022, registered for the offence
punishable under section 30(a) of the Bihar Prohibition and Excise
Act.

3. Allegedly, 28 litres of illicit *Mahua* wine is said to
have been recovered.

4. The learned counsel for the petitioner has submitted
that the petitioner is innocent, he has falsely been implicated in
this case, nothing has been recovered from his conscious
possession and he is a person of clean antecedent.

5. 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.

6. 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.

7. 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 into account that nothing has been recovered from his conscious possession and he is a person of clean antecedent.

8. With these observations, this criminal miscellaneous petition is disposed of.

(Nawneet Kumar Pandey, J)

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