

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68778 of 2023

Arising Out of PS. Case No.-461 Year-2023 Thana- GHOSI District- Jehanabad

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BIGAN PASWAN @ VIGAN PASWAN SON OF LATE BHATTU PASWAN
RESIDENT OF VILLAGE- BADKI AKAUNA, PS-GHOSHI, DISTRICT
-JEHANABAD

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Umesh Kumar
For the Opposite Party/s : Mrs.Sucheta Yadav

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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

Mrs. Sucheta Yadav, the learned Additional Public Prosecutor for

the State.

2. The petitioner apprehends his arrest in connection with

Ghosi P.S. Case No. 461 of 2023, registered for the offence

punishable under section 30(a)(d) of the Bihar Prohibition and

Excise (Amendment) Act, 2018.

3. Allegedly, 10 litres of illicit liquor and 1400 Kg of

Mahua are 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 has no criminal antecedent of similar nature.

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 notice of the fact that nothing has been recovered from the conscious possession of the petitioner and he has no criminal antecedent of similar nature.

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

(Nawneet Kumar Pandey, J)

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