

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71985 of 2023

Arising Out of PS. Case No.-127 Year-2020 Thana- DEV District- Aurangabad

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SUBODH RAY S/O RAMASHRAY RAI VILLAGE- BHATKUR, PS. DEO,
DIST. AURANGABAD (BIHAR)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Aman Vishal

For the Opposite Party/s : Mr.Dr. Kumar Uday Pratap

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

ORAL ORDER

2 07-11-2023 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
Deo P.S. Case No. 127 of 2020 registered for the offence
punishable under Section-30(a) of the Bihar Prohibition and
Excise (Amendment) Act, 2018.

Allegedly, 51 litres liquor is said to have been
recovered from beneath the seat of a tempo.

Learned counsel for the petitioner has submitted that
he is a person of clean antecedent. It has further been submitted
that the liquor is easily accessible to any person. Nothing has
been recovered from conscious possession of the petitioner.

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. hence it is not maintainable.

If the petitioner surrenders in the court below and seeks regular bail, the same shall be considered and disposed of on its own merit on the same day, without being prejudiced by this order. The learned court below shall take into account that the petitioner is a person of clean antecedent. The court below shall take notice of the fact that the petitioner is a person of clean antecedent and nothing was recovered from his conscious possession.

With the aforesaid observations, the application stands disposed of.

(Nawneet Kumar Pandey, J)

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