

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72242 of 2023

Arising Out of PS. Case No.-106 Year-2023 Thana- NATWAR District- Rohtas

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1. ISHWAR CHAUDHARY SON OF GHURAHU CHAUDHARY
RESIDENT OF VILLAGE- ASIYA TOLA, POLICE STATION- NATWAR,
DISTRICT- ROHTAS.
 2. VIKASH CHAUDHARY SON OF RAM BHAJAN CHAUDHARY
RESIDENT OF VILLAGE- ASIYA TOLA, POLICE STATION- NATWAR,
DISTRICT- ROHTAS.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajani Kant Singh
For the Opposite Party/s : Mr.Sharda Kumari

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

ORAL ORDER

2 07-11-2023 Heard the learned counsel for the petitioners and
learned APP for the State.

2.The petitioners apprehend their arrest for the
offences alleged under Section 30(a) of the Bihar Prohibition
and Excise (Amendment) Act, 2018, registered in connection
with Natwar P.S.Case No. 106 of 2023.

3. As per allegation, 13 litres of country-made liquor
was recovered by police party.

4. The learned counsel for the petitioners has
submitted that they are the persons of clean antecedents.
Nothing was recovered from the conscious possession of the



petitioners, rather 13 litres of liquor was recovered near a garden, which was not in possession of the petitioners.

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 petitioners surrender and seek regular bail before the court below, that shall be disposed of on its own merit on the same day, without being prejudiced by this order. The learned court below may take notice of the fact that nothing was recovered from the conscious possession of the petitioners and they are the persons of clean antecedents.

With these observations, the application stands disposed of.

(Nawneet Kumar Pandey, J)

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