

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.368 of 2024

Arising Out of PS. Case No.-10 Year-2023 Thana- Excise P.S. District- Rohtas

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DHARMENDRA KUMAR @ DHARMENDRA BIND S/O DHODHA
PRASAD @ TEDHA BIND Resident of Village- Aruhi, P.S- Kargahar, Dist
-Rohtas

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shashikant

For the Opposite Party/s : Mr.Mithlesh Kumar Khare

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

ORAL ORDER

2 24-01-2024 Heard learned counsel for the petitioner as well as the
learned APP for the State.

2. The petitioner apprehends his arrest in connection with
Excise P.S. FIR No. 10 of 2023 read with Excise Case No. 21 of
2023, registered for the offence punishable under Section 30(a) of the
Bihar Prohibition and Excise Act.

3. As per allegation, on the tip off, the informant raided
the place of occurrence and seized 55 liters of country made liquor
from the alleged e-Ricksha.

4. The learned counsel for the petitioner has submitted
that the petitioner has falsely been implicated in this case. He is a
person of clean antecedent. Nothing was recovered from his
conscious possession and his name has figured in confessional
statement of co-accused Ankit Kumar, from whose possession 55



liters of wine was recovered.

5. 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 dismissed as not maintainable.

7. If the petitioner surrenders in the court below and seeks regular bail, the same shall be considered and disposed of on the same day without being prejudiced by this order, taking into account that the petitioner is a person of clean antecedent.

8. Accordingly, this petition is disposed of.

(Nawneet Kumar Pandey, J)

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