

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2729 of 2025

Arising Out of PS. Case No.-369 Year-2024 Thana- SARAIYA District- Muzaffarpur

Suman Kumar S/o Ramsevak Ray Resident of village - Narayanpur Mal, P.S.
- Saraiya, Distt.- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate

For the Opposite Party/s : Mr. Navin Kumar Pandey, A.P.P.

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

ORAL ORDER

2 21-02-2025 Heard learned Counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 30(a), 32(2), 32(3), 36, 41(1) and 42(2) of the Bihar Prohibition and Excise Act registered in connection with Saraiya P.S. Case No. 369 of 2024.

3. Allegedly, the petitioner has been booked for Bihar Prohibition and Excise Act for recovery of total 172.80 litres of foreign liquor from the *Bolero* vehicle.

4. Learned Counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated and he is a person of clean antecedent and his name has figured in confessional statement of co-accused, Mukesh Kumar.



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 and seeks regular bail before the court below, the court below shall consider the same on its own merit without being prejudiced by this court and dispose of the same preferably on the same day taking into consideration that the petitioner is a person of clean antecedent and nothing has been recovered from his possession.

8. Before accepting the bail bond of the petitioner, the learned court below shall verify his criminal antecedent and if it is found that he is involved in any other case except the present one, his bail bond shall not be accepted.

(Nawneet Kumar Pandey, J)

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