

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71072 of 2024

Arising Out of PS. Case No.-170 Year-2024 Thana- PALASI District- Araria

Md. Firoj Son of Md. Aiyub @ Aiyub R/o- Village - Denga, Ward No.- 12,
P.S.- Palasi, District - Araria (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pintu Kumar Patel

For the Opposite Party/s : Mr.Nitya Nand Tiwary

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

ORAL ORDER

2 17-01-2025 Heard learned counsel for the petitioner as well as the
learned APP for the State.

2. The petitioner apprehends his arrest in connection with
Palasi P.S. Case No. 170 of 2024, registered for the offences under
Section 30 Section 30(a), 32(2), (3), 36, 41(1)(2) of Bihar Prohibition
and Excise Act 2018, and Section 341, 323, 307, 353 of the Indian
Penal Code.

3. As per allegation, on a secret information, the informant
along with police personnel reached the place of occurrence. Seeing
the police party, the petitioner tried to flee away but he was
apprehended. On search, 612 liters of Nepali wine was recovered
from the vehicle of the petitioner.

4. The learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in this
case. Nothing has been recovered from conscious possession of the



petitioner. The petitioner is a person of clean antecedent.

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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