

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77154 of 2024

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

Vikash Kumar Rai @ Vikash Kumar S/o- Surendra Ray Village- Basudevpatni
Ps- Saraiya Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad

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

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

ORAL ORDER

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

2. The petitioner apprehends his arrest for the offences alleged under Sections 30(a), 32(2), 36, 41(1), 41(2) of the Bihar Prohibition and Excise Act, 2016, registered in connection with Saraiya P.S. Case No. 369 of 2024.

3. Allegedly, the petitioner has been booked for Bihar Prohibition and Excise (Amendment) Act for recovery of total 172.8 litres of illicit liquor from the vehicle, in question.

4. At the outset, learned counsel for the petitioner has submitted that the case of this petitioner is on better footing to that of co-accused, Mukesh Kumar who has been granted regular bail.



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 same day taking into consideration that the petitioner is a person of clean antecedent.

(Nawneet Kumar Pandey, J)

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