

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.79964 of 2024**

Arising Out of PS. Case No.-89 Year-2024 Thana- MOHANPUR District- Samastipur

Awadhesh Kumar S/o- Kameshwar Singh Resident of village-Lawapur  
Mahnar PS- Mahnar District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with  
**CRIMINAL MISCELLANEOUS No. 80161 of 2024**

Arising Out of PS. Case No.-89 Year-2024 Thana- MOHANPUR District- Samastipur

Manjay Kumar S/o- Vijay Kumar Ray Resident of Village- Lawapur Narayan  
PS- Mahnar District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**  
(In CRIMINAL MISCELLANEOUS No. 79964 of 2024)  
For the Petitioner/s : Mr.Anish Kumar  
For the Opposite Party/s : Mr.Madhuri Lata  
(In CRIMINAL MISCELLANEOUS No. 80161 of 2024)  
For the Petitioner/s : Mr.Anish Kumar  
For the Opposite Party/s : Mr.Md. Nazir Ansari

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

ORAL ORDER

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

2. The petitioners apprehend their arrest for the  
offences alleged under Sections 274, 275, 123(B) of BNS and  
Sections-30(a), 34 & 36 of of the Bihar Prohibition and Excise  
Act registered in connection with Mohanpur P.S.Case No. 89 of



2024.

3. Allegedly, on the date of occurrence, the brother of the informant consumed liquor with his friends and subsequently, his condition became critical and declared dead in course of treatment. It was suspected that his brother has been given wrong illicit liquor by the co-accused.

4. 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.

5. 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.

6. If the petitioners 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 petitioners are the persons of clean antecedent.

(Nawneet Kumar Pandey, J)

A.K.V.//-

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