

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.88321 of 2024**

Arising Out of PS. Case No.-233 Year-2024 Thana- BARHARA District- Bhojpur

Dipak Yadav @ Dipak Kumar Ray S/o Manji Ray @ Manji Yadav R/o vill -  
Dubey Chapra, P.s. - Barhara, Distt.- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Prabhat Kumar Singh, Adv.

For the Opposite Party/s : Mr.Madan Kumar, APP

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

ORAL ORDER

2      21-02-2025                      Heard learned counsel for the petitioner as well as  
learned APP for the State.

2. The petitioner apprehends his arrest in connection  
with Barhara P.S. Case No. 233 of 2024, registered for the  
offences punishable under Sections 30 (a) of the Bihar  
Prohibition and Excise Act, 2018 and 303(2), 317(2) of BNS,  
2023.

3. As per allegation, the informant, on a secret  
information, reached the place of occurrence. Seeing the police  
party, the petitioner along with other accused persons fled away,  
leaving behind 500 liters of country-made liquor.

4. Learned counsel for the petitioner has submitted  
that he is innocent and has falsely been implicated in this case.



Nothing has been recovered from his conscious possession.

5. On the other hand, the learned APP for the State has opposed the prayer for bail and submitted that the petitioner has two criminal antecedent of similar nature.

6. 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.

7. 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.

8. 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 order.

**(Nawneet Kumar Pandey, J)**

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