

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.193 of 2025

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

MARGUB Son of Sadir Resident of village - Daulatpur, P.S.- Jokihat, District
- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md Naushaduzzoha, Advocate
For the Opposite Party/s : Mr. Shahabuddin Azeem @ S. Azeem, 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 341, 323, 307 and 353 of the Indian Penal Code and Sections 30(a), 32(ii) (iii), 36 and 41(i)(ii) of the Bihar Prohibition and Excise Act, 2022 registered in connection with Palasi P.S. Case No. 170 of 2024.

3. Allegedly, the petitioner has been booked for Bihar Prohibition and Excise Act for recovery of total 2040 bottles each 300 ml, total 612 litres of Nepali liquor from the *Scorpio* vehicle.

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 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 he was not arrested at the spot, nothing was recovered from his possession, his name is figured in the confessional statement of co-accused, Rizwan Ali and the petitioner is not involved in any other case of similar nature.

(Nawneet Kumar Pandey, J)

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