

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26283 of 2017

Arising Out of PS.Case No. -79 Year- 2017 Thana -MASRAKH District- SARAN

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Ashok Sah @ Ashok Kumar Sah, Son of Yogendra Sah, Resident of
Village- Dumarsan Fardahiyan, Police Station- Mashrakh, District- Saran
(Chapra).

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Sachida Nand Rai, Advocate

For the Opposite Party/s : Mr. Zainul Abedin, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 07-07-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

2. Apprehending his arrest in connection with Mashrakh
P.S.Case No. 79 of 2017 registered for the offences under Sections
272 and 273 of the Indian Penal Code and Sections 30, 30(a), 38
and 41 of the Bihar Prohibition and Excise Act, 2016 (for short
'the Act'), the petitioner has filed the present application under
Section 438 of the Code of Criminal Procedure for grant of pre-
arrest bail.

3. In view of the provision prescribed under sub-section
(2) of Section 76 of 'the Act', as also in view of the order dated
07.07.2017 passed by this Court in the matter of Ashok Sahani Vs.
State of Bihar (Cr.Misc. No. 26109 of 2017), I am of the
considered opinion that an application under Section 438 of the



Code of Criminal Procedure, 1973 would not be maintainable in any case involving the arrest of any person on accusation of offence committed under 'the Act'.

4. Hence, the present application filed under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail to the petitioner in a case involving accusation of offence committed under the 'the Act' is disposed of as not maintainable.

5. In case the petitioner surrenders and seeks bail, the court below shall keep in mind the observations made by this Court in the aforementioned order dated 07.07.2017 passed in Cr.Misc. No. 26109 of 2017 while disposing of the bail application on merits.

(Ashwani Kumar Singh, J.)

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