

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30906 of 2017

Arising Out of PS.Case No. -65 Year- 2017 Thana -ATHMALGOLA District- PATNA

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1. Vikky Kumar, Son of Anil Prasad Sharma

2. Anil Prasad Sharma, Son of Rajeshwar Prasad Sharma

All Resident of Village -English, P.S. -Athmalgola, District-Patna.

.... Petitioners

Versus

The State of Bihar

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 13-07-2017

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

2. Apprehending their arrest in connection with
Athmalgola P.S. Case No. 65 of 2017 registered for the offences
under Sections 448, 341, 323, 324, 379, 384, 354, 504/34 of the
Indian Penal Code and Section 37(b) of the Bihar Prohibition and
Excise Act, 2016, the petitioners have filed the present application
under Section 438 of the Code of Criminal Procedure for grant of
pre-arrest bail.

3. In view of the provisions prescribed under sub-
section (2) of Section 76 of the Bihar Prohibition and Excise Act,



2016 (for short '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 petitioners in a case involving accusation of offence committed under 'the Act' is disposed of as not maintainable.

5. In case the petitioners surrender and seek 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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