

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.27802 of 2017**

Arising Out of PS.Case No. -3 Year- 2017 Thana -UJIYARPUR District- SAMASTIPUR

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Vijay Kumar Mahto, Son of Late Ayodhya Mahto, resident of Village-  
Prembrahanda, P.S.- Ujiyarpur, District- Samastipur.

.... .... Petitioner/s

Versus

The State of Bihar.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Ranjan Kumar, Advocate

For the Opposite Party/s : Mr. Mukeshwar Dayal, 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 Ujiyarpur  
P.S.Case No. 03 of 2017 registered for the offences under Sections  
272, 273 of the Indian Penal Code and Sections 30(a)(d), 35(a) 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.)**

Sanjeet/-

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