

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5763 of 2018

Arising Out of PS.Case No. -205 Year- 2017 Thana -NAUBATPUR District- PATNA

1. Baudh Manjhi, S/o Gorakh Manjhi,  
2. Naresh Manjhi S/o Krishna Manjhi,  
Both R/o Village- Jalapura, P.S.- Naubatpur, District- Patna.

.... .... Petitioners

Versus

The State of Bihar .... .... Opposite Party

Appearance :

For the Petitioner/s : Dr. Manoj Kumar, Advocate

For the Opposite Party/s : Mr. Nagendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 09-02-2018 Heard learned counsel for the petitioners and learned  
counsel for the State.

The petitioners seek pre-arrest bail in connection  
with Naubatpur P.S. Case No. 205 of 2017 registered under  
Sections 30 A of the Bihar Prohibition and Excise Act.

Section 76(1) of the Bihar Prohibition and Excise  
Act, 2016 stipulates that all offences under this Act shall be  
cognizable and non-bailable. Its sub-section (2) stipulates that  
section 438 of the Code of Criminal Procedure shall not apply to  
the offences under the Excise Act.



Keeping in mind the allegations made in the F.I.R. and the statutory bar to grant of pre-arrest bail to those booked under the Bihar Prohibition and Excise Act, 2016, in my considered opinion, an application under Section 438 of the Code of Criminal Procedure in the present matter is not maintainable.

Thus, the petition is dismissed as not maintainable.

In case the petitioners surrender and seek bail, the learned Special Judge shall be required to dispose of the same on merits taking into consideration the observations made by this Court in the matter of **Ashok Sahani vs. State of Bihar [(2017) 3 PLJR 632]**.

**(Ashwani Kumar Singh, J.)**

Sanjeet/-

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