

IN THE HIGH COURT OF JUDICATURE AT PATNA

Cr. Misc. No.58886 of 2017

Arising Out of PS.Case No. -135 Year- 2017 Thana -HAJIPUR District- VAISHALI (HAJIPUR)

Amod Kumar @ Amod Chaudhary Son of Sri Suresh Choudhary, Resident
of Village-Jadua Mamu Bhanja, P.S. Hajipur Town, District-Vaishali

.... Appellant

Versus

The State of Bihar

.... Respondent

Appearance :

For the Appellant/s : Mr. Sanjay Singh, Advocate
Mr. Ganga Prasad Bimal, Advocate
For the Respondent/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

8 10-01-2018 The petitioner has renewed his application for grant of pre-arrest bail in connection with Hajipur Town P.S. Case No. 135 of 2017 registered under Sections 272 and 188 of the Indian Penal Code as well as Sections 30, 38, 47 and 48 of the Bihar Prohibition and Excise Act, 2016 (for short 'the Act')

The previous application for grant of pre-arrest bail of the petitioner was disposed of as not maintainable vide order dated 07.07.2017 passed in Cr. Misc. No.25894 of 2017 in view of the provisions prescribed under sub-section (2) of Section 76 of the Act.

The petitioner has renewed his application on the ground that a Division Bench of this Court in Cr. Misc. No.21578 of 2017 and analogous cases has held that an application for grant of pre-arrest bail in cases registered under Excise Act would be



maintainable if the allegations made in the FIR do not attract the ingredients of the offences under the Act.

I have heard Mr. Sanjay Singh, learned counsel for the petitioner and perused the order passed by the Division Bench in Cr. Misc. No.21578 of 2017 and analogous cases.

From perusal of the first information report itself, it would transpire that there is allegation of recovery of more than 200 liters of Indian made foreign liquor from the grill shop of the co-accused Suresh Chaudhary. It is also alleged in the FIR that the petitioner is one of the person instrumental in carrying on the business of prohibited liquor along with Suresh Chaudhary.

In that view of the matter, it cannot be said that the ingredients of the offences under the Act are not attracted in the present case.

Accordingly, I am of the considered opinion that this application preferred under Section 438 of the Cr. P.C. is not maintainable in view of sub-section (2) of Section 76 of the Act.

The application is dismissed as not maintainable.

(Ashwani Kumar Singh, J.)

Sanjeet/-

U		T	
---	--	---	--

