

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13552 of 2018

Arising Out of PS.Case No. -64 Year- 2017 Thana -SARAIYA District- MUZAFFARPUR

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Sanjeev Kumar, son of Ramnand Prasad @ Ram Nandan Prasad @
Ramnand Sah, resident of village- Bahilwara, P.S.- Saraiya, District-
Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ganesh Prasad Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR
SINGH
ORAL ORDER

3 31-10-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

By way of the present application preferred under
Section 438 of the Code of Criminal Procedure, the petitioner has
renewed his prayer for grant of pre-arrest bail in connection with
Saraiya P.S. Case No.64 of 2017 registered on 21.02.2017 under
Section 35(c) of the Bihar Prohibition and Excise Act, 2016. A
similar application of the petitioner was earlier rejected vide order
dated 01.07.2017 passed in Cr. Misc. No.25215 of 2017.

It is submitted by the learned counsel for the
petitioner that certain relevant points could not be argued earlier.



The petitioner is running a juice corner at Bhilwara Yetwaar Market for his livelihood and selling of entire range of fruit juice, food drink and soft drink. He contended that Life Kingfarmer Premium and Thundervolt was non-alcoholic product of D.D. Food Product, Delhi and it was certified by the department of Food Safety, Delhi. According to him, merely because on the bottle seized from possession of the petitioner it was mentioned as Fun Ship Beer, the same could not be said to be Alcohol.

On the other hand, learned counsel for the State submitted that pursuant to the order of the Excise Superintendent, Excise Department, a raid was conducted by the officials of the Excise Department and 130 bottles of 650 ml. Beer was recovered from the shop of the petitioner. He contended that the seized liquor was sent for test and chemical examination and from the report of the Excise Department it would reveal that the seized article was fermented liquor and intoxicant Ethyl Alcohol to the extent of 0.2 and 0.3 per cent.

Regard being had to the recovery of huge quantity of liquor from the shop of the petitioner and the provisions prescribed under sub-section (2) of Section 76 of the Bihar Prohibition and Excise Act, 2016, which clearly bars applicability of Section 438 of the Code of Criminal Procedure, I am not



inclined to grant pre-arrest bail to the petitioner.

Accordingly, the application for grant of pre-arrest bail is rejected.

(Ashwani Kumar Singh, J)

Md.S./-

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