

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5792 of 2018

Arising Out of PS.Case No. -312 Year- 2017 Thana -HUSAINGANJ District-Siwan

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Balindra Singh S/o Chhatu Singh, resident of village- Hasanpurwa Tola,
Rampur, P.S.- Hussainganj, District- Siwan.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary, Advocate

For the State : Mr. Shailendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

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

The petitioner seeks pre-arrest bail in connection with
Hussainganj P.S. Case No.312 of 2017 registered under Sections
272, 273 and 308 of the Indian Penal Code as well as Sections 30,
36, 38, 41(1) and 62 of the Bihar Prohibition and Excise Act,
2016.

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 petitioner surrenders and seeks 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)

Md.S./-

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