

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5500 of 2018

Arising Out of PS.Case No. -319 Year- 2016 Thana -BARACHATTI District- GAYA

Vikash Kumar, son of Dharmendra Sahani, Resident of Village/ Mohalla-
Nurani Bag Colony, Gulzarbag, Police Station-Alamganj, Patna City,
District- Patna.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Tej Narayan Singh, Advocate

For the Opposite Party/s : Mr. Tapeswar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 02-02-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks pre-arrest bail in connection
with Barachatti P.S. Case No.319 of 2016 registered under
Sections 272, 273, 120B of the Indian Penal Code and Sections
47(a), 48(2), 54 and 63 of the Bihar Excise Amendment 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.)

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