

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12103 of 2018

Arising Out of PS.Case No. -79 Year- 2017 Thana -PATLIPUTRA District- PATNA

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1. Chhotu Singh @ Jyoti Kumar Singh @ Rahul Kumar, aged about 35 years, S/o Raj Kumar Singh, resident of village- Rupas Mahaji, P.S.- Bakhtiyarpur, District- Patna.
 2. Gautam Kumar , aged about 27 years, S/o Vijay Prakash , resident of village- Raghapur, P.S.- Bakhtiyarpur, District- Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Dubey, Advocate
For the State : Mr. Umeshnand Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 11-04-2018 Heard learned counsel for the petitioners and learned counsel for the State.

The petitioners have renewed their prayer for grant of pre-arrest bail in connection with Special Case No.899 of 2017 arising out of Patliputra P.S. Case No.79 of 2017 corresponding to G.R. No.1597 of 2017 registered for the offences punishable *inter alia* under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (for short 'the Act'). The prayer for grant of pre-arrest bail was earlier dismissed as withdrawn vide order dated 07.07.2017 passed in Cr. Misc. No.26079 of 2017.

Learned counsel for the petitioner submitted that no



incriminating article was recovered from possession of the petitioner and, hence, their prosecution in the present case is without any substance. He submitted that from the first information report itself it would transpire that the alleged recovery was made from one Ajit Kumar and not the petitioners.

On the other hand, learned counsel for the State submitted that from the first information report itself it would transpire that the accused Ajit Kumar along with two others was riding on a Scooty which was intercepted by the police and two others riding on the Scooty managed to escape. However, on search from a bag kept on the Scooty thirteen pouches of Royal Stag and one bottle of Blenders Pride were recovered. The apprehended accused disclosed the name of the petitioners as their accomplice. He submitted that the allegations made in the first information report would certainly attract the ingredients of the offence punishable under Sub Section (a) of Section 30 of the Act and in view of the statutory provisions prescribed under Sub Section (2) of Section 76 of the Act, an application under Section 438 of the Code of Criminal Procedure is not maintainable.

I have heard learned counsel for the parties and perused the record.

I find substance in the submission of the learned counsel



for the State.

In that view of the matter, this application is dismissed
as not maintainable.

(Ashwani Kumar Singh, J)

Md.S./-

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