

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5651 of 2018

Arising Out of P.S.Case No. -541 Year- 2017 Thana -SAUR BAZAR District- SAHARSA

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1. Dilkhush Kumar, Son of Arun Kumar @ Arun Yadav @ Dobhi,
Resident of Village- Baijnathpur, Ward No. 5, P.S.- Sour Bazar, District-
Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Adv.

For the Opposite Party/s : Mr. Sri Iftekhar Mahmood, 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 Special Case No. 556 of 2017 arising out of Sour Bazar
P.S.Case No. 541 of 2017 registered under Section 30(a) 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)

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