

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5503 of 2018

Arising Out of PS.Case No. -217 Year- 2017 Thana -BHAGWANPUR District- VAISHALI
(HAJIPUR)

1. Amit Kumar, son of Raj Kishor Patel
2. Deepak Kumar, son of Bachchu Singh @ Bachchu Patel, Both residents
of Village- Pojhiya, Police Station- Lalganj, District- Vaishali.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dilip Kumar Singh, Advocate

For the Opposite Party/s : Smt. Pronati Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 02-02-2018

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

The petitioners seek pre-arrest bail in connection
with Bhagwanpur P.S. Case No.217 of 2017 registered under
Sections 30(a) and 41(i) 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 petitioners surrender and seek 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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