

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5590 of 2018

Arising Out of PS.Case No. -103 Year- 2017 Thana -VIDYAPATINAGAR District- SAMASTIPUR

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1. Pappu Kumar @ Pappu Chaurasiya, Son of Late Vijay Chaurasiya,
resident of Village Sathi, P.S. Vidhyapati Nagar, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anita Kumari Singh

For the Opposite Party/s : Mr. Sri Arun Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 08-02-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks pre-arrest bail in connection
with Vidyapati Nagar P.S.Case No. 103 of 2017 registered under
Sections 272 and 273 of the Indian Penal Code and Sections
30(a), 35(a), 36(b), 38(i) (ii) and 47 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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