

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70182 of 2019

Arising Out of PS. Case No.-454 Year-2019 Thana- BAHADURPUR District- Darbhanga

Santosh Kumar Kunwar @ Santosh Kumar S/o Late Mod Kunwar @ Mod
Kumar R/o Village- Gangapatti, P.S.- Bahadurpur, District- Darbhanga.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Awadhesh Kumar
For the Opposite Party : Mr. Kanhaiya Kishore (App100)

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 11-12-2019 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks pre-arrest bail in connection with
Bahadurpur P.S. Case No. 454 of 2019 registered under Section
30(a) of the Bihar Prohibition and Excise Act, 2016.

In view of recovery of 8 bottles of 180 ml of foreign
liquor and 10 bottles of 300 ml of Nepali liquor from the house
of the petitioner, it cannot be said that no offence is attracted
under the Bihar Prohibition and Excise Act, 2016 (for short ‘the
Act’). Once an offence under the aforesaid Act is attracted, an
application under Section 438 of the Code of Criminal
Procedure would not be maintainable in view of Clause (2) of
Section 76 of the Act.

In that view of the matter, the learned Special Judge



has rightly rejected the application of the petitioner for grant of pre-arrest bail holding the same to be not maintainable. Accordingly, the application is dismissed as not maintainable.

In case, the petitioner surrenders and seeks bail within four weeks from today, the learned Special Judge (Excise), Darbhanga shall dispose of the application of the petitioner keeping in mind the law laid down by this Court in the case of *Ashok Sahni Vs. State of Bihar*, since reported in *2017(3) PLJR 632*.

(Ashwani Kumar Singh, J)

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