

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.226 of 2019

Arising Out of PS. Case No.-343 Year-2017 Thana- SHRIKRISHNAPURI District- Patna

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Ankur Kumar @ Abhigyan @ Abhigyan Prakash Son of- Bimlesh Kumar
Pandey @ Bimlesh Kumar Resident of Shivpuri Road No.1/B, House NO.13,
P. S. Shastri Nagar, District- Patna

... .. Petitioner

Versus

1. The State Of Bihar through Director General Of Police, Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The D.I.G. Patna Region, Patna
4. The Superintendent of Police, District-Patna
5. The D.S.P. Patna
6. The Investigating Officer, P.s. Sri Krishna Puri, District- Patna

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Kunal Tiwary, Advocate
For the Respondent/s : Mr.Partha Sarthy, GA-4

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 31-01-2019

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

2. In the instant writ petition filed under Articles
226 and 227 of the Constitution of India, the petitioner has prayed
for quashing of the first information report (for short 'FIR') of Sri
Krishnapuri P. S. Case No.343 of 2017 registered under Section



30(a) of the Bihar Prohibition and Excise Act, 2016 (for short 'the Act of 2016').

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and has been falsely implicated in the instant case. The police personnel had forcibly asked him to sign on the seizure-list as he had nothing to do with the bag in which three bottles of liquor were found. While he was going to his home, out of suspicion, the police intercepted him. They maliciously charged him with the allegation of carrying three bottles of liquor in the bag.

4. *Per contra*, learned counsel appearing for the State submitted that the defence of the petitioner cannot be looked into at this stage by the Court for the purpose of quashing the FIR. He contended that the defence taken by the petitioner has to be proved in course of trial and not before that.

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

6. Section 30 prescribes punishment for the offence of contravening any provision of the Act of 2016 or any rule or order made or notification issued under the Act of 2016 or in contravention of any condition of any license or permit or pass,



renewed under the Act of 2016 or without a valid license, permit or pass issued under this Act.

7. Clause (a) of Section 30 prescribes punishment for manufacturing, possessing, buying, selling, distributing, collecting, importing, exporting or removing any intoxicant or liquor.

8. On Perusal of the FIR, as contained in Annexure-1 to the present application, it would be evident that the informant Hari Narayan Ram, Sub-Inspector of Police has alleged that in routine checking, three persons riding on an auto-rickshaw started running away. They were chased and intercepted by the police and, on query, they disclosed their name as Ankur Kumar @ Abhigyan, Mrityunjay Kumar and Anand Kumar. On search, from the possession of the petitioner a bag containing three bottles of Royal Stag Reserve Whisky were recovered, which were seized in presence of independent witnesses.

9. The allegation made in the FIR clearly attract the ingredients of a cognizable offence punishable under Section 30(a) of the Act of 2016.

10. To hold investigation into a cognizable offence is statutory right of the police.



11. In that view of the matter, neither institution of the FIR nor its investigation can be held to be bad.
12. Accordingly, the writ petition, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.02.2019
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