

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.754 of 2019

Arising Out of PS. Case No.-419 Year-2017 Thana- KISHANGANJ District- Kishanganj

Nowshad Khan, Son of Kader Khan, Resident of Village-Naya Basti, P.S.-
Gowaalpokhar @ Gowerpokhar, District-Uttar Dinajpur (W.B.)

... .. Petitioner

Versus

1. The State of Bihar
2. Additional Chief Secretary, Prohibition Excise and Registration Department,
Government of Bihar, Bailey Road, Patna.
3. The Excise Commissioner-cum-Inspector General Registration Department,
Bihar, Patna.
4. The District Magistrate, Kishanganj.
5. The Superintendent of Police, Kishanganj.
6. The S.D.P.O. Kishanganj.
7. The S.H.O. Kishanganj , P.S.-Kishanganj.
8. The I.O. of Kishanganj, P.S Case no. 419/2017

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Radha Mohan Singh, Advocate
For the Respondent/s	:	None

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 29-04-2019

This application under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for quashing the First Information Report (for short 'FIR') of Kishanganj P.S. Case No.419 of 2017 as contained in Annexure-1 to this writ petition.

2. The said FIR has been registered on the basis of written report submitted by one Pramod Kumar Rai, (Officer-in-charge) of Kishanganj Police Station under Section 30(a) of the



Bihar Excise and Prohibition Act (for short 'Excise Act') against Santosh Kumar, Ramesh Prasad and owners of truck bearing Registration No. BR-06G-0047 and owner of the seized liquor. The petitioner is not named in the FIR.

3. The contention of the learned counsel for the petitioner is that he is not connected in any manner with the alleged offence. His name has been given by a co-accused in course of confessional statement recorded before the police. That apart, there is no other material to connect him with the alleged crime. However, on the basis of the said confessional statement, the investigating officer is chasing him.

4. No one appears for the State.

5. It would be evident from the written report submitted by the informant, Officer-in-charge of Kishanganj Police Station that on 12.08.2017 on the basis of a confidential information, the truck bearing Registration No.BR-06G-0047 was intercepted by the police and, on search, 4447 bottles of foreign liquor kept in 245 cartons were recovered from it. The petitioner is not named as an accused in the FIR. His name has transpired in course of investigation. The allegation made in the FIR would clearly attract the ingredient of the offence alleged under Section 30(a) of the Excise Act, which prescribes punishment with imprisonment for a



term not less than ten years but which may extend to imprisonment for life and with fine which shall not be less than one lakh rupees but which may extend to ten lakhs rupees.

6. The investigation into a cognizable offence is supposed to be confidential in nature. The charge-sheet has yet not been submitted. At this stage, the contention of the petitioner that there is no material except confessional statement of a co-accused recorded by the police cannot be accepted.

7. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.05.2019
Transmission Date	04.05.2019

