

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1119 of 2019

Arising Out of PS. Case No.-524 Year-2018 Thana- SAUR BAZAR District- Saharsa

RAMAN PRAKASH @ MUNNA YADAV Son of Late Arun Kumar Yadav
Resident of Village- Duhabi, Sahuria Purvi, Ward No. 11, P.S.- Sour Bazar,
District- Saharsa.

... .. Petitioner

Versus

1. The State of Bihar through the Director General -CUM- Inspector General Of Police, Patna.
2. The Deputy Inspector General of Police, Kosi Division/Range, Saharsa.
3. The Superintendent of Police, Saharsa.
4. The Sub-Divisional Police Officer, Sadar, Saharsa.
5. The S.H.O., Sour Bazar Police Station, Saharsa.
6. The S.I. of Police, namely, Sri Nagendra Ram, I.O., Sour Bazar Police Station, Saharsa.
7. The A.S.I. of Police, namely, Md. Naushad Ali-cum-Informant, Sour Bazar Police Station, Saharsa.

... .. Respondents

Appearance :

For the Petitioner	:	Mr.Ashok Kumar Mishra, Advocate
For the Respondent-State:		Mr.Md. Nadim Seraj, GP-5
		Mr. Iqbal Asif Niazi, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 29-07-2019

This application has been filed by the petitioner for quailing the first information report (for short 'FIR') of Sour Bazar P. S. Case no. 524 of 2018 registered for the offences punishable under Sections 30(a), 38(1) and 41(1) of the Bihar Prohibition and Excise Act, 2016 on the basis of written information submitted by respondent Assistant Sub-Inspector of Police, namely, Md.



Naushad Ali against the six accused persons including the petitioner.

2. Learned counsel appearing for the petitioner submitted that the implication of the petitioner in the instant case is absolutely false. He has been arrested maliciously by the police and this fact would be evident from Report-2 of the Superintendent of Police. The said Report-2 has been annexed as Annexure-1 to this application. He contended that the informant has deliberately and intentionally implicated the petitioner at the behest of his enemies as also on account of ulterior consideration to extract money from the petitioner.

3. On the other hand, learned counsel appearing for the State submitted that there is specific allegation in the FIR that huge quantity of illicit liquor was being unloaded by the petitioner in his premises from where he was operating brick kiln factory. He contended that seizure-list would show that when the police raided, huge quantity of prohibited liquor was recovered from the premises of the petitioner and the petitioner was apprehended at the place of occurrence itself.

4. I have heard learned counsel for the parties and carefully perused the FIR, as contained in Annexure-2 to the present application.



5. There is specific allegation in the FIR that the petitioner is indulged in trade of prohibited liquor from the premises belonging to him. On confidential information, the police raided the premises of the petitioner and recovered and seized huge quantity of prohibited liquor. The allegations made in the FIR would clearly attract the ingredients of the offences alleged. The Report-2 of the Superintendent of Police has not been supplied to the petitioner in compliance of Section 207 of the Code of Criminal Procedure. The same is an illegally obtained document and no reliance can be placed on the document which has been illegally obtained by an accused.

6. In view of the fact that the allegations made in the FIR do attract a cognizable offence, the institution of the FIR or its investigation cannot be held to be bad.

7. In that view of the matter, the application is dismissed.

(Ashwani Kumar Singh, J)

kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2019
Transmission Date	31.07.2019

