

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51306 of 2018**

Arising Out of PS. Case No.-52 Year-2017 Thana- BEUR District- Patna

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Sunil Kumar son of Gaya Prasad resident of Village - Kutubchak, P.S. -
Kawakole, District - Nawada.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar
For the Opposite Party/s : Mr.Sri Rajendra Prasad Nat

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**CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
CAV JUDGMENT**

Date : 17-05-2019

Heard learned counsel for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 06.04.2018, passed by Special Judge, Vigilance-1st, Patna in Special Case No. 8 of 2017 arising out of Beur P.S. Case No. 52 of 2017, whereby cognizance has been taken against the petitioner for the offences under section 217/34 of the Indian Penal Code and Section 7, 8 and 13 of the Prevention of Corruption Act.

The brief facts of this case is that the informant came to know that in the night of 28.01.2017, a vehicle bearing No. WO-2X-1088 loaded with wine was intercepted



and taken to the Beur police Station and the same was released by the A.S.I., Shravan Kumar and Sunil Kumar, S.I. after taking huge amount of money.

Learned counsel for the petitioner has submitted that petitioner is innocent and has not committed any offence. In fact, the F.I.R. has been lodged after lapse of 26 days from the date of occurrence without explaining the plausible delay which creates doubt over the prosecution version. Moreover, neither there is any eye witness to the alleged occurrence nor anything has come during the course of investigation against the petitioner. The learned Magistrate without appreciating the materials available on record has taken cognizance against the petitioner and other under Sections 217/34 of the Indian Penal Code and Section 7, 8 and 13 of the P.C. Act in mechanical manner. Therefore, the same deserves to be quashed.

Learned counsel appearing for the State opposes the application by contending that there is allegation of taking huge money for releasing the illegal wine against the petitioner. Moreover, there is sufficient material against the petitioner in the case diary which supports the allegation alleged against the petitioner. Therefore, no ground for



quashing the entire proceedings is made out.

From perusal of the material on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the petitioner.

Only a prima facie satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. Moreover, the petitioner has got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the trial Court.

The prayer for quashing the order taking cognizance is refused.

The application accordingly stands dismissed.

(Arvind Srivastava, J)

brajesh/-

AFR/NAFR	NAFR
CAV DATE	06.05.2019
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