

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.33169 of 2020

Arising Out of PS. Case No.-293 Year-2020 Thana- PIPRA District- East Champaran

SHIV KUMAR SINGH @ SHIVJEE SINGH S/o Late Dayali Singh R/o
village- Tikuliya, P.S.- Pipra, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Thakur
: Ms.Babita Kumari
: Ms.Vaishnavi Singh
For the Opposite Party/s : Mr.Bal Mukund Prasad Sinha (APP)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

11 04-03-2021 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor appearing on behalf of the State.

This application for grant of regular bail arises out of
Pipra P.S. Case No. 293 of 2020 registered for the offences
punishable under Sections 272, 273, 120(B)/34 of the Indian
Penal Code and Sections 30(a), 36, 41(i) of the Bihar
Prohibition and Excise Act, 2016 (hereinafter referred to as the
Act).

The petitioner is in custody since 25.08.2020. A



Police Officer of the concerned police station is the informant. It is alleged in the F.I.R. that on the basis of secret information, a raid was conducted in the premises known as *Gawas* belonging to the petitioner, leading to recovery of 3000 liters of spirit from a room which was found locked. The petitioner declined to handover the keys of the lock on the pretext that the same were missing. The lock had to be broken by the police to open the door for making search.

The petitioner is said to have disclosed to the police that illegal activities were being carried on by one Dilip Singh, who only could explain the circumstance, in which, the spirit was found present in the room.

Mr. Ajay Kumar Thakur, learned counsel for the petitioner has attempted to convince this Court with reference to Section 32 of the Act that the petitioner was able to discharge his onus to explain the circumstance in which the spirit was found present in the premises in question. In the absence of any investigation by the police about involvement of accused Dilip Singh, the petitioner should not be allowed to remain in jail any further.

I have perused the case diary, from which it



transpires that the said Dilip Singh has been apprehended by the police and he appears to have denied before the police, his involvement in the offence alleged.

The above noted submission made on behalf of the petitioner is not acceptable to this Court also for the reason that allegedly the petitioner did not deny his knowledge about the presence of spirit in the room in question. The room is admittedly owned by the petitioner. It has, however, been argued that the room was let out on rent in favour of Dilip Singh.

Be that as it may, considering the huge quantity of spirit recovered by the police found stored in premises belonging to the petitioner, in contravention of the provisions of the Act, I am not inclined to grant the petitioner privilege of regular bail for the present.

This application is accordingly dismissed.

It is however observed that if no charge is framed within six months from today, the petitioner shall be at liberty to renew his prayer for bail.

Before I part with, reference may be made to the order passed by this Court on 03.03.2021 wherein the fact



regarding non availability of copies of the bail applications with the learned Addl. Public Prosecutor of this Court has been noticed. Learned Addl. Public Prosecutor has submitted that in prevailing COVID-19 pandemic situation copies of the bail applications were not being sent to the office of the Advocate General by learned counsel for the petitioners, in the absence of adequate facility, which resulted to such situation and otherwise there is no difficulty in getting the copies of the bail applications from the office of the Advocate General.

(Chakradhari Sharan Singh, J)

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