

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1062 of 2021

Arising Out of PS. Case No.-208 Year-2021 Thana- GAURICHAK District- Patna

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Dinesh Prasad Yadav Son Of Shri Dev Narayan Yadav R/O - Indira Nagar,
Nala Road, Housing Colony, District- Purnia, Bihar- 854301, Presently
Posted As Constable At Navin Police Kendra, District- Patna, Bihar- 800001.

... .. Petitioner/S

Versus

1. The State Of Bihar Through The Principal Secretary, Home Department,
Govt. Of Bihar, Patna
2. The Director General Of Police, Bihar, Patna
3. The Senior Superintendent Of Police, Patna
4. The Sub Inspector Of Police, Gaurichak Police Station, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Apurv Harsh, Adv. Mr. Manu Tripurari, Adv. Mr. Prashant Bhardwaj, Adv. Ms. Mahima Sharma, Adv.
For the Respondent/s	:	Mr. Manish Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 05-04-2023

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

The petitioner has filed the present criminal writ
application to quash Gaurichak P.S. Case No. 208 of 2021 in
connection with Special Case No. 3454 of 2021 lodged under
Section 37(B) of the Bihar Prohibition and Excise (Amendment)
Act, 2018.

Counsel for the petitioner submits that petitioner has
falsely been implicated in the present case. He submits that the

F.I.R. has been filed by his colleague with whom he has strange relation.

Counsel submits that from the contents of the F.I.R., it transpires that the breath analyzer test of the said P.S. Gaurichak was not in order. It has also come that he has been tested from the machine kept in another P.S., namely, Gopalpur. He also submits that the said machine was dysfunctional for the reason that it's servicing was long overdue. The calibration was supposed to be carried every year regularly, while report itself states that last calibration date was 13.03.2019 *i.e.* more than two years, three months ago which shows that reading of the machine was unreliable.

Counsel submits that the doctor who checked him at primary health center, Sampatchak has written a letter to the Officer In Charge Gaurichak P.S. stating that he found the petitioner conscious and co-operative. He further submits that breath has no smell of alcohol but he also states that the breath analysis report shows the alcohol level 16.9 mg/100 ml. Therefore, patient was referred to N.M.C.H. Patna for Pathological Department for blood alcohol examination and final report.

Counsel further submits that the petitioner was

brought to the N.M.C.H., where no blood alcohol examination was made on account of Corona situation. Therefore, the petitioner was forwarded in judicial custody.

Counsel submits that the present case has been filed by virtue of personal revenge and this aspect may be considered by this Court.

Counsel for the State submits that counter affidavit has been filed in this case and in the said counter affidavit, it has categorically stated that investigation has been completed and in the investigation, the case has been found true against the present petitioner. He further submits that the high officials have recommended the petitioner for departmental proceeding for such conduct.

After going through the submissions and records of the case, this Court is not inclined to interfere at this stage and, therefore, the relief(s) sought by the petitioner to quash the F.I.R. is hereby rejected.

But liberty is hereby granted to the petitioner that he shall raise all the points raised here before appropriate forum at appropriate stage.

This rejection does not means that petitioner shall loose his right to raise these points before the Trial Court at

appropriate stage.

Accordingly, the present criminal writ application
stands dismissed.

(Dr. Anshuman, J.)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	