

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42760 of 2023**

Arising Out of PS. Case No.-166 Year-2019 Thana- RAFIGANJ District- Aurangabad

RAJESH KUMAR GUPTA @ RAJESH KUMAR S/O MAHENDRA
PRASAD GUPTA R/O Village- Chaudhari Gali, PS. Rafiganj, Dist.
Aurangabad

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binod Kumar Pandey, Adv.

For the Opposite Party/s : Mr.Indu Kumari Srivastava, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 10-12-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. This application has been filed for quashing of the order dated 11.04.2023 passed in Trial No. 2020/2022 (CIS No. 764/2019) arising out of Rafiganj P.S. Case No. 166 of 2019 passed by the learned Special Judge, Excise Ist, Aurangabad whereby the learned trial court rejected the petition filed by the petitioner u/s 227 of the Cr.P.C. for discharging the petitioner from this case.

3. The prosecution case in brief is that the informant was informed regarding a consignment of liquor brought through a truck which was stored in a constructed room within the premises of the co-accused, Tajuddin. Upon arriving at the



newly constructed boundary wall of the co-accused, the informant found that the main gate of the boundary wall was locked and there was a room built at the south west corner of the compound. Upon further investigation, the nearby residents told that the co-accused, Mr. Mian has the keys. Upon searching, the co-accused, Mr. Mian was not found at his residence. The informant along with local authorities broke the lock and entered the room of the co-accused and total 8583.84 litres of illicit liquor was recovered from the water tank.

4. Learned counsel has further submitted that the petitioner is innocent and has falsely implicated in this case. The petitioner is not named in the F.I.R. The name of the petitioner has transpired in this case only on the basis of the confessional statement of the co-accused person. Nothing has been recovered from the conscious possession of the petitioner. It is further submitted that the recovery has been made from the premises of the co-accused, Tajuddin and the said premises was under the custody of Mr. Miyan. Learned counsel has further submitted that the petitioner has no concern with the alleged recovery or the co-accused persons. The charge-sheet has been submitted against the petitioner vide charge-sheet no. 340/2022 dated 17.08.2022.



5. Learned A.P.P. for the State have vehemently opposed the quashing application of the petitioner and submitted that in para 48 of the case diary, the name of the petitioner has surfaced in this case from the confessional statement of the co-accused, Mr. Miyan and the petitioner is involved in the alleged offence. In paragraph 131 of the case diary, the charge-sheet has been submitted against the petitioner and hence, in such a situation, the present quashing petition of the petitioner should be dismissed in the interest of justice as there is sufficient ground to proceed against the petitioner.

6. Considering the aforesaid facts and circumstances of the case, this court do not find it safe to invoke the extraordinary inherent jurisdiction of the court under Section 482 of the Cr.P.C. to quash the said impugned order.

7. Accordingly, the present quashing application is rejected.

(Chandra Prakash Singh, J)

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