

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41813 of 2024

Arising Out of PS. Case No.-237 Year-2023 Thana- SARAI District- Vaishali

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BISHNU KUMAR SAH SON OF RAJENDRA PRASAD SAH RESIDENT
OF VILLAGE - JAGDISHPUR, P.S. - JAGDISHPUR, DISTRICT -
BHAGALPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar

For the Opposite Party/s : Mr.Abhay Kumar Roy

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 19-08-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor appearing on behalf of the State.

2. The present application has been filed for quashing the order dated 06.05.2024 passed by the learned Exclusive Excise Special Court No. II, Vaishali at Hajipur in connection with Sarai P.S. Case No. 237 of 2023 registered for the offences punishable under Sections 409/120(B) of the Indian Penal Code read with Sections 30(a), 32(i)(ii)(iii), 41(i)(ii), 51,52 of the Bihar Prohibition and Excise Act, 2018 whereby the Exclusive Excise Special Court II Vaishali at Hajipur has rejected the application filed by the petitioner for release of Rupees Four Lakhs which has been seized in connection with the present case.

3. The main accused of the case is one Bidur Kumar



who is a police officer and illegal liquor was recovered from his premises in the police station. The police raided the ancestral permanent house of Bidur Kumar. From an almirah said to belong to Bidur Kumar, Rupees Four Lakh, one passbook of a Bank account in the name of Bidur Kumar and one ATM card in the name of Bidur Kumar was recovered.

4. Learned counsel for the petitioner submits that the petitioner is the brother of Bidur Kumar and the cash which has been recovered from the almirah of Bidur Kumar belongs to the petitioner and not Bidur Kumar and the money was kept there in due course of business by the petitioner.

5. The petitioner claims that Rupees Four Lakhs seized from Almirah of Bidur Kumar is the business collection of seven days and has prayed for release of the same in his favour.

6. Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor has opposed the application of the petitioner and has submitted that the amount recovered is the ill-gotten money of Bidur Kumar which was kept in the almirah belonging to Bidur Kumar and therefore, the same should not be released. He also submits that the recovery of passbook and ATM card in the name of Bidur Kumar supports the fact that the amount



recovered is of Bidur Kumar and as an afterthought, this petitioner is claiming the amount as his collection of seven days business.

7. If a businessman has some daily collection, it will be available in his shop and not in the almirah belonging to his elder brother.

8. In these circumstances, this application is dismissed.

(Sandeep Kumar, J)

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