

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43848 of 2023

Arising Out of PS. Case No.-172 Year-2023 Thana- NAGAR District- Vaishali

Binod Kumar Das S/O Late Narayan Das R/O Village- Minapur, Madhuban,
P.S And Distt.- Hajipur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Subhash Kumar, Advocate
For the Opposite Party : Mr. Lakshmi Kant Sharma, A.P.P

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

ORAL ORDER

2 03-12-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The present application has been filed on behalf of the petitioner for quashing the F.I.R. arising out of Hajipur (Town) P.S. Case No. 172 of 2023 registered against the petitioner for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 40 litres of illicit country-made liquor was recovered from the motorcycle.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. Nothing has been recovered from the vehicle of the petitioner. Learned counsel has submitted that in the absence of the petitioner, the motorcycle was being used by his *bhagina*. It



is further submitted that no case under Section 30(a) is made out against the petitioner as he was living at the place of posting, Port Blair, South Andaman.

5. Learned A.P.P. for the State has vehemently opposed the quashing application of the petitioner. Learned A.P.P. for the State has relied on the judgment of **Rajendra Singh Vs. The State of Uttar Pradesh, AIR 2007 SC 2786** wherein it was observed that " No finding on plea of alibi can be given in petition under Section 482 of the Cr.P.C." Learned A.P.P. for the State has further relied on the judgment of **Prashant Kumar Ningani Vs The State of Madhya Pradesh 2019 Cr. LJ (NOC) 100 (M.P)** wherein it is observed that "plea of alibi cannot be taken into consideration while exercising powers under Section 482 of the Cr.P.C."

6. Considering the submissions of the learned counsel of both the parties and material available on the record, this Court is of the opinion that the proceedings cannot be quashed at this preliminary stage. Whether the petitioner had knowledge of the offence is a factual question that requires appreciation of evidence during trial. The FIR and the subsequent proceedings do not appear to be an abuse of process of law. The petitioner is at liberty to raise all his defences before the trial court



7. Accordingly, this quashing application is dismissed.

(Chandra Prakash Singh, J)

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