

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5147 of 2025

Arising Out of PS. Case No.-45 Year-2025 Thana- Excise P.S. District- Sitamarhi

Shrawan Kumar S/o- Late Ram Pragas Sah Resident of village-
Baharoyr Ward No- 13 PS-Riga District- Sitamarhi at present residing
at Bawariya PS- Mehsaul OP District- Sitamarhi

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Birendra Kumar, Advocate
For the Opposite Party/s : Mr.Nitya Nand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 27-02-2025

Heard Mr. Birendra Kumar, learned counsel
appearing on behalf of the petitioner and Mr. Nityanand
Tiwary, learned A.P.P. for the State.

2. The present quashing petition has been preferred
for quashing of the First Information Report in connection
with Sitamarhi Excise P.S. Case No. 45 of 2025 instituted
under Section 30(a) and 32(3) of the Bihar Prohibition and
Excise Amendment Act, 2018.

3. It is submitted by learned counsel appearing for
the petitioner that save and except disclosure/confessional
statement, nothing appears against this petitioner. It is
submitted that during investigation only suspicion developed



against this petitioner till now.

4. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Salib @ Shalu @ Salim Vs. The State of Uttar Pradesh and Others** reported in **2023 SCC Online SC 947** and **Mohammad Wajid and Anr. Vs. State of U.P. and Ors.** reported in **2023 SCC Online SC 951**.

5. Learned A.P.P., while opposing aforesaid prayer, submitted that name of petitioner surfaced in this case on the basis of disclosure of the co-accused person namely, Santosh Kumar, immediately upon his arrest. It is submitted that investigation of this case is still open, where during course of investigation till now, it transpires from the statement of wife and father of apprehended co-accused namely, Santosh Kumar that he was working with this petitioner and was dealing with illegal activities/trade of illicit liquor, which is prohibited in the State of Bihar in view of Bihar Prohibition and Excise Act, 2016.

6. It is further submitted by learned A.P.P. that



aforesaid statement is available under paragraph '15' and '16' of the case diary. While concluding argument, learned A.P.P. submitted that learned counsel appearing for the petitioner, at this stage, disputing the factual aspects *qua* possession of illicit liquor, which is not permissible under the law. In this context, it is submitted that petitioner is a man of criminal antecedents and he was found indulged in three more criminal cases of similar nature.

7. Learned A.P.P., while taking note of aforesaid legal reports of Hon'ble Court, submitted that none of the judgments cited by learned counsel for the petitioner appears helping him as the factual aspects of this case is different with those cases which was quashed by Hon'ble Supreme Court through aforesaid judgments. It is further submitted that this case is also not falls under the seven (7) guidelines as settled by Hon'ble Supreme Court in para 102 in the matter of **State of Haryana v. Bhajan Lal, [1992 Supp (1) SCC 335]**, which reads as under:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of



the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”



8. Considering the aforesaid factual and legal submission and by taking note of the fact as petitioner is a named accused through F.I.R., lodged for a cognizable offence, where witnesses *prima-facie* appears supported his involvement, during course of investigation through their statement as recorded under section 161 of the Cr.P.C. and, moreover as learned counsel appears disputing the factual aspects, which is not permissible to look at this stage and admittedly, petitioner found involved in three more criminal cases of similar nature, the present petition appears devoid of any merit.

9. Accordingly, in view of aforesaid facts, the present quashing petition stands dismissed.

10. Presence of the Investigating Officer stands dispensed with.

11. Let a copy of this judgment be sent to the learned trial court/court concerned forthwith.

(Chandra Shekhar Jha, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2025
Transmission Date	27.02.2025

