

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2313 of 2024

Arising Out of PS. Case No.-3 Year-2017 Thana- DHANAHA District- West Champaran

Pintu Kumar @ Pintu Prasad Son Of Late Vishwanath Prasad Village-
Chandraha Rupwalia, Ps- Bathwariya, Dist- West Champaran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Umesh Chandra Verma, Advocate
	:	Mr. Sharad Kumar Verma, Advocate
For the Respondent/s	:	Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 19-02-2025 Heard the parties.

2. The present appeal has been preferred:-

“for quashing of the order dated 22.03.2024 passed by the learned Special Judge, Excise, Bagaha, West Champaran in Trial No. 1232 of 2022 arising out of Dhanaha P.S. FIR No. 03 of 2017 dated 08.01.2017 registered under sections 272/273 of the Indian Penal Code (For brevity, IPC) and 30 (a) of the Bihar Prohibition and Excise Act (For brevity, Excise Act), whereby and whereunder petition for discharge u/s 227 of the Cr. P. C. has been dismissed.”

3. As per the prosecution story, the informant upon confidential information, resorted to vehicle inspection and upon signal to stop, though the driver was apprehended, the



person sitting beside managed to escape. The apprehended person was Toofani Baitha and the person who escaped was informed as Vikash Patel, 151 liters of foreign liquor recovered/seized between the dicky and the middle seat from the said Bolero. The apprehended person further informed that the consignment was loaded from Gorakhpur to deliver to Munna Prasad and Pintu Prasad (appellant herein), where he had already delivered one consignment a fortnight ago. This led to the F.I.R.

4. The investigation took place, charge-sheet submitted vide no. 213/2018 on 30.09.2018 whereafter cognizance was taken.

5. In the meantime, a petition for their discharge was filed under section 227 of the Cr.P.C., which came to be rejected on 22.03.2024.

6. Aggrieved, the present appeal.

7. Learned counsel for the appellant submits that save and except the confessional statement of Toofani Baitha, there is no admissible evidence or material available on record to frame charge against them.

8. Learned APP on the other hand has taken this Court to the order in question to show that the specific allegation is



against the appellant that the material was to be delivered to him. In that background, prima facie, case under section 41 of the Bihar Prohibition and Excise Act, 2016 is made out against him.

9. The court having heard the parties came to the conclusion that there is sufficient material to proceed against the appellant. It as such, rejected the discharge petition which needs no interference.

10. Having heard the parties and perusing the record, as pointed out by the learned APP, a perusal of the F.I.R. would show that the arrested person Toofani Baitha informed that it was delivered to the appellant and further, a fortnight ago also, another consignment was delivered. A perusal of the order would show that the court was fully satisfied that enough materials are there to proceed against him. In that background, this Court does not deem it fit and proper to interfere in the said order dated 22.03.2024.

11. Accordingly, the appeal stands dismissed.

(Rajiv Roy, J)

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