

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62689 of 2019**

Arising Out of PS. Case No.-385 Year-2017 Thana- SIWAN MUFFASIL District- Siwan

Deepak Singh @ Deepak Kumar Son of Late Birendra Kumar Singh Resident of Village - Najvanshi Bhawan Doubra Dhobi, P.O. and P.S.- Jasidih, Distt.- Deoghar, Jharkhand, at present constable 113 P.O. and P.S.- Muffassil, Distt.- Siwan, Bihar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar, Advocate Mr. Magan Kumar, Advocate Mr. Bhaskar Anand, Advocate Mr. Vijay Kumar Vimal, Advocate
For the State	:	Mr.Meena Singh, APP

**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER**

4 19-01-2026 Heard the parties.

2. The present application has been filed praying for quashing the F.I.R. bearing Muffasil P.S.Case No. 385 of 2017, dated 09.08.2017, registered under Section 420 of the I.P.C. and Section 37(D) of the Bihar Prohibition and Excise Act, 2016.

3. The present F.I.R. dated 09.08.2017 was registered on the basis of a written application of the official informant based on an inquiry report, against the petitioner and others, alleging therein that the petitioner along with other accused persons were consuming liquor and the petitioner has posted pictures of the same on his Facebook account on 09.09.2016.

4. Learned counsel for the petitioner submits that the



petitioner is a constable in the Bihar Police and that the very basis of allegation against the petitioner is that he is holding a glass of beer and cheering up along with his friends in the photographs posted on his Facebook account, when there was a complete ban on the consumption of liquor in the State of Bihar, however, the picture in question was taken in the year 2015, and at that time, consumption of liquor was not prohibited in the State of Bihar.

5. Further, learned counsel for the petitioner submits that even from a bare perusal of the FIR and the photographs annexed therewith, it is evident that the photographs in question has been clicked much prior to the enforcement of the Bihar Excise Act, 2016 and therefore, the photographs could not be the sole basis for initiating criminal prosecution against the petitioner. Further, it is clear that no offence under Section 420 of the I.P.C. and Section 37(D) of the Bihar Prohibition of Excise Act , 2016 are not made out.

6. Learned APP has opposed the present petition.

7. I have considered the submissions of learned counsel for the parties and perused the materials on record. From the reading of the FIR, the only allegation against the petitioner appears to be of clicking photographs with liquor.



However, aforesaid photographs cannot be the sole basis for initiating the criminal prosecution against the petitioner. Section 37(D) of the Bihar Excise Act prohibits consumption and sale of illicit liquor for which photographs may be treated as secondary cooperating evidence, however, such photographs cannot be the only basis to initiate criminal prosecution. The photographs in question were clicked much prior to enforcement of the Bihar Excise Act, 2016 which is an uncontroverted fact and is borne out of the FIR itself. In my opinion no criminal offence is made out against the petitioner.

8. Considering the law laid down by the Hon'ble Supreme Court in the case of **State of Haryana & Ors. vs. Bhajan Lal & Ors.** reported as **1992 Supp(1) SCC 335**, the continuance of the criminal prosecution against the petitioner would be an abuse of the process of law and therefore cannot be permitted to be continued.

9. Accordingly, the F.I.R. bearing Muffasil P.S. Case No. 385 of 2017 is quashed qua the petitioner.

10. In view of the above, this application is allowed.

(Sandeep Kumar, J)

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