

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1888 of 2023

Arising Out of PS. Case No.-320 Year-2022 Thana- BAIKUNTHPUR District- Gopalganj

Sudama Prasad, S/o Chandrika Prasad, Resident of Village- Bamo P.S-
Baikunthpur, District- Gopalganj.

... .. Petitioner

Versus

1. The State of Bihar, Through The Principal Secretary, Excise Department, Bihar, Patna.
 2. The District Magistrate, Gopalganj. Bihar
 3. The Superintendent of Police, Gopalganj. Bihar
 4. The Inspector, Excise, Gopalganj. Bihar
 5. The Officer-In-Charge, Baikunthpur Police Station, Distt.- Gopalganj Bihar
- Respondents

Appearance :

For the Petitioner	:	Mr. Natraj Verma, Advocate Mr. Sachina, Advocate
For the Respondents	:	Mr. Vivek Prasad, G.P-7 Ms. Manisha Singh, AC to GP-7 Ms. Mita Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 02-07-2026

The present Criminal Writ Petition has been preferred by the Petitioner seeking prosecution of the Informant/police officer for malicious prosecution pleading that Baikunthpur P.S Case No. 320 of 2022 was registered for the offence punishable under Section 30(a), 41 of the Bihar Prohibition and Excise (Amendment) Act, 2018 on the written report of the police officer. After completion of the investigation, closure report was submitted showing mistake of fact. He is also seeking compensation for illegal detention by way of filing an Interlocutory Application No.1 of 2025, which is taken on record.



2. The Baikunthpur P.S Case No. 320 of 2022 was registered on the written report of sub-inspector, Radhika Raman Prasad, stating that as per information received by the police, the Petitioner had kept illicit liquor in his Bolero vehicle near his house. When the police reached the place of occurrence, police found that one person was attempting to take down one white sack from the dickey of the vehicle, but seeing the police, he started fleeing away, leaving behind the sack. However, he was apprehended by the police. On search, total 14.22 liter illicit liquor was recovered from the sack lying in the dickey. Hence, the Petitioner was arrested and the case was instituted.

3. However, after investigation, it is found that there was mistake of fact. The vehicle was just purchased in auction which was earlier seized and confiscated under the excise Act just few hours earlier by the nephew of the Petitioner and after taking vehicle at home, it was being cleaned by the Petitioner and in that course it was found that there is expired wine kept in the dickey of the vehicle and the same was informed to the police.

4. Hence, in view of the explanation regarding existence of liquor in the vehicle, closure report was filed by the police in the case. Hence, I find that at the outset, there was *prima facie*



case against the Petitioner to give the written report and lodge the FIR. Hence, such institution of prosecution cannot be said to be malicious. At the outset, the police being unaware of the purchase of the vehicle in auction by the Petitioner or his nephew, it had given written report and the FIR was instituted, but ultimately, police, finding the truth, filed closure report on account of mistake of fact.

5. I also find that after arrest of the Petitioner in this case, he was also remanded by judicial order. That way, the arrest also gets legal and that has not been challenged till date.

6. As such, I find that there is no intent of the Informant to injure the Petitioner by making false allegation of offence. There was sufficient ground to lodge the FIR at the first sight and the arrest was also approved by the Jurisdictional Magistrate by remand order.

7. The present writ petition is accordingly dismissed, being shorn of any merit.

(Jitendra Kumar, J.)

Chandan/-

AFR/NAFR	N.A.F.R
CAV DATE	NA
Uploading Date	03.07.2026
Transmission Date	03.07.2026

