

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57813 of 2023**

Arising Out of PS. Case No.-262 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Begusarai

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BIPUL KUMAR @ BABLOO SINGH S/O SURENDRA SINGH R/O VILL
PANSALLA WARD 13, PS- MUFFASIL (LAKHO OP.), DIST-
BEGUSARAI

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Braj Bhushan Poddar, Advocate

For the Opposite Party/s : Mr.Suman Kumari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ANSUL

ORAL JUDGMENT

Date : 15-06-2026

Heard learned counsel for the petitioner as well as
learned counsel for the opposite party.

2. The petitioner has invoked the inherent the
jurisdiction of this Court for quashing the order of cognizance
dated 23.02.2023 in connection with Excise P.S. Case No. 262 of
2022 passed by learned Exclusive Excise Judge-II, Begusarai
where cognizance against the petitioner under Section 30(a) of
Bihar Prohibition and Excise Amendment Act, 2018 has been
taken.

3. The prosecution case is that on information that one
Bipul Singh alias Babloo Singh was carrying illicit liquor in a
vehicle bearing Registration No. BR01-GA-7852. He constituted a
raiding team. At 12:35 he along with raiding team reached Govind



Petrol Pump. On enquiry locals told him that one Bipul Kumar alias Babloo was roaming around the truck for some time. He could not be located at that point of time. The police lodged the case against the said Bipul Kumar.

4. The Investigating Officer of the case investigated and submitted charge-sheet bearing No. 05/2023 dated 08.02.2023 against the petitioner.

5. The petitioner filed an application on 17.02.2023 stating that his name was Bipul Kumar and not Babloo Singh. He also stated that he was not the owner of the vehicle and the vehicle was in the name of other persons. However, the application was rejected and cognizance was taken against the petitioner.

6. Learned counsel for the petitioner submits that the petitioner was not present at the place of occurrence. The only allegation was that he was seen roaming around a petrol pump where this vehicle was parked. He was not arrested from or near the truck. The identity of the person who disclosed the name of the petitioner has also not been revealed in the FIR. Thus, the petitioner has been involved in this case on a tip of from a person that he was seen around a vehicle which was parked near a petrol pump. This could be as vague as possible.

7. Section 30(a) penalises a person who possesses, transports or removes liquor. The word possesses require



conscious possession with both knowledge and control. Without physical presence and without any document connecting the petitioner to the vehicle or its contents one cannot talk about conscious possession. The petitioner claims himself not to be either the owner or the driver of the truck. The police has not unearthed any material during investigation connecting him to the vehicle.

8. The Investigating Officer did not collect the details of truck owner, did not verify as to who loaded the consignment and did not trace the origin of the vehicle. The police even did not attempt to find out the real owner of the vehicle.

9. In the opinion of this Court, in the absence of conscious possession or any credible material connecting the petitioner either with the liquor or the vehicle, the prosecution case has no legs to stand.

10. It is to be noted that Bihar Prohibition and Excise (Amendment) Act, 2018 removed the provision for vicarious liability that existed under the Act of 2016. The charge-sheet at best to proceed on the presumption that the petitioner is connected to the truck and liquor. This is imputing vicarious liability based on an anonymous tip. In the absence of any statutory provision for vicarious liability and any material connecting the petitioner to the liquor of the vehicle, the prosecution cannot be sustained.



11. It is to be seen that the allegations in the FIR even if taken on the face value or accepted in their entirety do not prima facie constitute any offence or make out any case against the accused.

12. Apart from the same, there is an inherent weakness in the excise prosecution in the State of Bihar. The Act does not provide for maintaining the chain of custody of the seized material nor the rules have any such provision. The prosecution will never be able to sustain a challenge to the chain of custody issue at trial.

13. In such situation conviction on such shaky ground is impossible and thus, continuation of the present prosecution is an abuse of the processes of the Court. Thus, the present quashing application is allowed.

14. Accordingly, the order of cognizance dated 23.02.2023 in connection with Excise P.S. Case No. 262 of 2022 passed by learned Exclusive Excise Judge-II, Begusarai is hereby quashed, so far as the petitioner is concerned.

(Ansul, J)

amitkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.06.2026
Transmission Date	22.06.2026

