

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7942 of 2018

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Sunil Kumar, S/o Late Bhattu Mahto, Resident of Mohalla- Chhoti Pahari,
P.S.- Soh Sarai, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department of Bihar.
2. The District Magistrate, Nalanda at Bihar Sharif.
3. The Superintendent of Police, Nalanda at Bihar Sharif.
4. The Station House Officer, Soh Sarai P.S., Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar No.1, Advocate
For the Respondent/s : Mr. Vivek Prasad- GP-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-05-2018

A criminal case has been registered against the petitioner by Police Station Sohsarai being Case No. 206/2017 for various offences under the Indian Penal Code and the Bihar Prohibition and Excise Act. On a search on the premises of the petitioner, namely, a house, certain incriminating materials were



found which are prohibited under the Prohibition Act. A case has been registered and two mobile phones of the petitioner and a sum of Rs. 6,490/- has been seized. The petitioner sought release of the material but the Criminal Court has rejected the same.

Even though this Court had been liberal in releasing the materials which are subject matter of proceedings for confiscation under Section 56 of the Bihar Prohibition Act but in this case we find that the material seized is not for the purpose of confiscation but is for the purpose of investigation into the involvement of the petitioner in the crime in question. The learned Special Court has considered all these aspects and has refused to release the material, as is evident from Annexure-2 dated 17.02.2018. As the mobile phone and the contents therein are subject matters of evidence for inquiry into the criminal case and the cash recovered from the petitioner is being used for the purpose of criminal investigation, exercising our extraordinary jurisdiction under Article 226 of the Constitution we see no reason to permit the material to be released to the petitioner. The petitioner may take recourse to the remedy available under the Code of Criminal Procedure with regard to the issue in question.



With the aforesaid, the application stands dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
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