

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6883 of 2018

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1. Rakesh Kumar, Son of Sudhir Singh, R/o Village-Tihiya, P.S.-Khaira, District-Jamui.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar & Prohibition Excise Department, Bihar, Patna.
2. The Excise Commissioner, Prohibition, Excise Department, Bihar, Patna.
3. The District Magistrate Cum Collector, Jamui
4. The Superintendent of Police, Excise, Jamui.
5. The Superintendent of Police, Jamui.
6. The Officer Incharge, Khaira Police Station, Jamui.
7. The Investigating Officer, Khaira Police Station, Jamui.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh

For the Respondent/s : Mr. VIVEK PRASAD- GP7

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 13-04-2018

Seeking quashing of the act of the respondents State Government in seizing the mobile phone of the petitioner bearing Samsung Company containing the Jio Sim as well as Airtel Sim vide No. 8210430281 & 8521012955 respectively in connection with Khaira P.S. Case No. 405/2017 for the offences under Section 309/34 of the Indian Penal Code and Section 37(b) of Bihar Excise and Prohibition Act, 2016, this writ petition has been filed.

Having heard learned counsel for the parties, we find that under the Bihar Excise Act, power for confiscation is conferred on the



State Government under Section 56 and prima facie a mobile phone may not come within the purview of the things that are liable for confiscation under Section 56.

Taking note of the aforesaid, we direct release of the mobile phone of the petitioner in question on the petitioner filing a personal bond as may be directed by the District Magistrate, Jamui. Further, in case, any further proceedings shall initiate against the petitioner objection of the petitioner with regard to any offence or confiscation proceeding being initiated against him should be decided first before proceeding in the matter.

With the aforesaid, this application stands disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/Rajeev-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.04.2018
Transmission Date	NA

