

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.260 of 2019

Arising Out of PS. Case No.-245 Year-2018 Thana- AURAI District- Muzaffarpur

Vasudev Mahto, S/o Ramji Mahto Resident of Village /Mohalla- Tikiya Toli,
P.O.- Mahendru, P.s.- Sultanganj, Distt.- Patna. Petitioner
Versus

1. The State Of Bihar Through The Principal Secretary and Ors Excise Department, Government Of Bihar, Patna.
2. The District Magistrate, Muzaffarpur Bihar
3. The Superintendent of Police, Muzaffarpur. Bihar
4. The S.H.O., Aurai East , Muzaffarpur Bihar Respondent/s

Appearance :

For the Petitioner/s : Mr. Rekha Prasad
For the Respondent/s : Mr. Anil Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 04-02-2019 This writ petition has been filed by the petitioner for directing the respondents to release Bolero Pick-up van bearing Registration No. BR-01GE-5467 which has been seized in connection with Aurai P.S. Case no. 245 of 2018 registered interalia under Section 30(a), 37(c) and 38 of the Bihar Prohibition and Excise Act, 2016.

On query made by the Court as to whether the petitioner has moved before the court below under Section 451 of the Code of Criminal Procedure for release of the vehicle in question, learned counsel for the petitioner submitted that an application was filed but the same has been rejected vide order dated 01.11.2018 passed by the learned Special Judge Excise. On further query, the learned counsel for the petitioner submitted that the said order has not been assailed in the instant



writ petition.

Since the petitioner has already preferred an application for release of the seized vehicle before the court below and the prayer has been rejected, in the opinion of this Court, a writ petition under Article 226 of the Constitution of India would not be maintainable. The petitioner cannot invoke two parallel proceedings, one under the Cr.P.C and the other under the extraordinary jurisdiction of this Court provided under Article 226 of the Constitution of India. Since the order rejecting his prayer for release of the vehicle is a final order passed by the court of competent jurisdiction, the petitioner ought to have assailed the same in accordance with law in an appropriate proceeding.

In that view of the matter, I am not inclined to entertain this writ petition. It is dismissed accordingly with liberty to the petitioner to challenge the order dated 01.11.2018 passed by the learned Special Judge Excise, Muzaffarpur in connection with Aurai P.S. Case no. 245 of 2018 in accordance with law.

(Ashwani Kumar Singh, J)

pradeep/sneha

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