

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19558 of 2019

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Ganesh Kumar

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Chandra Shekhar Anand
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

2 20-12-2019 Petitioner has preferred this writ petition for issuance of direction to the opposite party to release Rs. 30,000/- in favour of the petitioner.

The A.S.I of Khusrupur Police Station raided the house of the petitioner on 09.05.2019 and seized 400 ml country made liquor and 6 liters Indian made foreign liquor as well as Rs. 30,000/- from the house of the petitioner and lodged Khusrupur P.S.Case No. 136 of 2019 against the petitioner under various provisions of the Bihar Prohibition and Excise Act 2016.

Learned counsel for the petitioner submits that A.S.I of Khusrupur Police Station wrongly seized Rs. 30,000/- from



the house of the petitioner and as a matter of fact, the seized money belongs to the petitioner. He further submits that no confiscation proceeding in respect of the seized amount has been initiated.

Section 56 of Bihar Prohibition and Excise Act 2016 says that whenever an offence has been committed, which is punishable under this Act(a) any intoxicant or liquor unlawfully imported, transported, manufactured, sold, stored, possessed, material, utensil, implement, apparatus, package or covering and or the other contents, it any, of such receptacle, package or covering for the purposes of storing, manufacturing or labelling such intoxicant or liquor. (b) any animal, vehicle, vessel or other conveyance used for carrying any intoxicant or liquor(c) any premises or part thereof that may have been used for storing or manufacturing any liquor or intoxicant or for committing any other offence under this Act shall be liable to be confiscated in a manner prescribed under the provisions of the Act.

The bare perusal of aforesaid section 56 of Bihar Prohibition and Excise Act 2016 goes to show the cash amount is not liable to be confiscation.

No doubt, Section 60 of Bihar Prohibition and Excise Act 2016 bars jurisdiction of the court to pass order in respect of



articles which are liable to be confiscated but as we have already noticed that cash amount does not come under the purview of Section 56 of Bihar Prohibition and Excise Act 2016,

In view of the aforesaid facts and circumstances, this writ petition is allowed and, accordingly, opposite party no. 5 , Superintendent of Police, Patna is directed to ensure the release of cash amount of Rs. 30,000/- in favour of the petitioner which was seized from his house in connection with Khusrupur P.S.Case No. 136 of 2019 within two weeks from the date of receipt/ produciton of copy of this order.

In the aforesaid manner , this writ petition stands disposed of.

N.K/-

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

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