

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1963 of 2020

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Rakesh Mahto @ Rakesh Mahato @ Rajeev Ranjan, Son of Maheshwar
Mahto, Resident of Village-Malpur Agrail, P.S.-Sakra, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Inspector General of Police, Bihar, Patna.
5. The District Magistrate/Collector, Muzaffarpur.
6. The Superintendent of Police Muzaffarpur.
7. The Officer-in-Charge of Sakra Police Station, District-Muzaffarpur
8. The investigation Officer of Sakra P.S. Case no. 309/17, Sakra Police
Station, District-Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anuj Kumar, Adv
For the Respondent/s : Mr.Vikash Kumar (SC11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 08-07-2020

The proceedings of the Court are being conducted
through Video Conferencing and the Advocates joined the
proceedings through Video Conferencing from their residence.



Heard learned counsel for the petitioner and learned counsel for the respondents.

Petitioner has prayed for the following relief:-

“ To release cash amount of Rs. 3,36,680.00/- in favour of petitioner which was seized from the house of petitioner on 11.10.2018 during course of alleged search made in connection with Sakra P.S. Case No. 309 of 2017 dated 21.08.2017, registered from the offence under Section 272, 273 of the Indian Penal Code and Section 30(a), 41 of the Bihar Prohibition and Excise Act, 2016.”

Informant who is police officer has alleged that on 20.08.2017 at about 11:45 night he received confidential information that huge consignment of illicit liquor is being unloaded from a truck and on receiving said information he along with other police personnel raided the place and found one truck and one Pick-up van parked behind the school and found few cartoons loaded and few cartoons unloaded from the truck and three persons were apprehended and others managed



to escape and from the truck cough syrup and foreign liquor was recovered which were seized and FIR was instituted under Section 272, 273 of I.P.C. and section 30(a)/41 of the Excise Act giving rise to Sakra P.S. Case 309 of 2017 dated 21.08.2017. It is further alleged that house of Rakesh Mahto @ Rajiv Ranjan was searched on 08.10.2018 and from his Almirah Rs. 3,36, 680/- was recovered for which he had no valid explanation and since he is indulged in illicit trade of liquor cash was seized and deposited in the Bank.

Petitioner has filed this petition for release of his cash amount which was seized in connection with Sakra P.S. Case 309 of 2017 after one year of institution of said case. Cash seized in Excise Act is not liable for confiscation under Section 56 of the Excise Act as such bar of jurisdiction in confiscation under 60 of the Excise Act is not applicable in case of seizure of cash and as such special court Excise where the case instituted under the Excise Act is pending has jurisdiction to pass an order for release of the seized cash.

The writ petition is disposed of with liberty to the petitioner to file an application under Section 451 of the Cr.P.C. for release of cash amount seized under the Excise Act and upon such petition being filed by the petitioner, the Special Court



Excise is directed to dispose of said petition within 30 days
from the date of filing of such petition.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

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

