

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15588 of 2018

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1. Mukesh Kumar @ Sharma, son of Umesh Sharma, resident of Mohalla- Prem Nagar, P.S. & P.O. - Jehanabad, District, Jehanabad
 2. Nishant Kumar @ Nishant Kumar @ Upkar Kumar, son of late Rameshwar Sharma @ late Sanjay Kumar, resident of Mohalla- Prem Nagar, P.S. & P.O.- Jehanabad, District, Jehanabad at present Bajidpur, Korra, District, Jehanabad, Bihar, P.S. Ghoshi
 3. Chotu Kumar @ Abhishek Kumar, son of Yaswant Sharma, resident of mohalla, New Professor Colony, PS & PO Jehanabad, District, Jehanabad

... .. Petitioner/s

Versus

The State Of Bihar through the Excise Department, Jehanabad, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sayed Imran Ghani

For the Respondent/s : Mr.Kumar Manish -Sc5

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 24-11-2020

Heard the parties.

Petitioners have prayed for following reliefs:-\

(I) For issuance of appropriate writ(s), order(s) or direction(s) in the nature of mandamus directing and commanding the respondent – authorities to release the three MI smart phones, whose colours are black, golden and silver respectively are issued.

(ii) For issuance of any other writ(s), order(s) or direction (s) as the petitioner is entitled to.”

Petitioners claim to be owners of mobiles which were



seized by the police in connection with Makhdumpur P.S. Case No.121/18, Special Case No. Excise 388/18 pending before the Special Court, Excise.

The mobiles seized are not liable for confiscation under Section 58 of the Excise Act as such, the bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and the Special Court, Excise where the excise case is pending has jurisdiction to pass order for release of seized mobile during pendency of trial on terms and conditions as usually imposed for release of seized articles.

The writ petition is disposed of with liberty to petitioners to file a petition for release of seized mobiles before the Special Court, Excise under Section 451 of Cr.P.C. and the Special Court, Excise shall decide such petition within 30 days from the date of its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.11.2020
Transmission Date	NA

