

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2000 of 2020

=====

Md. Hasib alias Md. Hashim Son of Mohammad Kasim Resident of Village
Gerua Ghat, P.S.-Kasba District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principal Secretary, Registration Excise and Prohibition Department, Government of Bihar, Patna.
3. The District Magistrate Cum- Collector Purnea.
4. The Superintendent of Excise Purnea.
5. Superintendent of Police Purnea.
6. Officer in Charge Sadar Muffasil, Purnea.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar
For the Respondent/s : Mr.Vikash Kumar (Sc11)

=====

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

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

Date : 08-07-2020

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

Petitioner has prayed for following relief:-

“To issue an appropriate writ(s), order(s), direction(s)
in the nature of a writ of Mandamus directing the respondent
the District Magistrate-cum-Collector, Purnea (respondent
no.3) to release the vehicle of the petitioner namely Scorpio
bearing Registration No.BR11PB-6365 which has been



seized by the Sadar (Muffasil) P.S. Case No.545 / 2019 dated 24.10.19 instituted for the offence under Sections 272, 273 IPC and 30(a) of the Bihar Prohibition and Excise Act, 2016 which is pending in the court of 2nd Additional District and Sessions Judge-cum-Special Judge, Excise Act, Purnea.”

It has been submitted on behalf counsel for the petitioner that from FIR as well as seizure memo, it is apparent that no illicit liquor was recovered from the vehicle as such, vehicle is not liable for confiscation under Section 56 of the Bihar Prohibition and Excise Act, 2016.

It is submitted by the petitioner that no confiscation case has been initiated against the seized vehicle which belongs to petitioner and he has not received any such notice. In view of several judgments passed by this Court as well as order passed by the Excise Commissioner in Appeal being Confiscation case No.107 of 2019 (Ajit Rai and others versus Collector, Shivwhar) as no illicit liquor has been recovered from the seized vehicle, same is not liable for confiscation and as such bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and concerned Special Court (Excise) can exercise its jurisdiction under Section 451 of Cr.PC for release of the vehicle during pendency of criminal trial.

The writ petition is disposed of with liberty to petitioner to file a petition under Section 451 of Cr.pc. for release of



vehicle before the concerned Special Court (Excise) and the vehicle shall be provisionally released in favour of petitioner after due identification and upon producing the ownership documents and registration certificate upon terms and conditions as usually imposed by the trial court while provisionally releasing the vehicle during pendency of trial within 30 days from the date of filing of such petition by the petitioner along with a copy of order passed by this Court.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2020
Transmission Date	NA

