

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4429 of 2020

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Isteyak Ahmad Son of Md. Jubair, resident of Village- Hasansarai, Police Station- Baligawn, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar the Principal Secretary State of Bihar Excise Department Bihar Patna.
2. The District Magistrate, Vaishali, Bihar.
3. The Superintendent of Police, Vaishali, Bihar.
4. The Officer Incharge, Baligaon Police Station, Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dharmesh Kumar
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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

Date : 10-07-2020

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

Petitioner has prayed for the following relief:-

“To quash and set aside the order dated 10.12.2019 passed by the court of Additional Sessions Judge-II-cum-Excise Court, Vaishali at Hajipur in Baligaon PS Case No. 10 of 2019 by which he has refused to exercise jurisdiction to release the vehicle bearing Registration No. BR 06 GB 9816 of the petitioner in connection with the aforesaid PS case although not a single bottle of foreign liquor was seized from the vehicle, hence



provisions of Bihar Prohibition and Excise Act , 2018 is not applicable, hence refusal to release on the ground that as per section 60 of the Excise Act, the power to confiscate or release is vested in the Collector, is not sustainable in the eye of law.”

It has been submitted by learned counsel for the petitioner that no illicit liquor was recovered from the vehicle in question.

It has been submitted by learned counsel for the State that in case of no recovery of any illicit liquor from the vehicle, the vehicle is not liable for confiscation and same has been decided by the Excise Commissioner, Bihar, Patna, in appeal of confiscation being Case No. 107 of 2019 (arising out of Tariyani P.S. Case No. 184 of 2018) titled as Ajit Rai & Ors Vs. The Collector, Sheohar.

Accordingly, petitioner is directed to file an application before the concerned Special Court (Excise), under Section 451 of Cr.P.C for interim release of the vehicle which has been seized by the police in the case as same is not liable for confiscation and bar of jurisdiction in confiscation under Section 60 of the Excise Act, 2016 will not be applicable and as such it is the Special Court (Excise), which can pass an order for release of the vehicle, with terms and conditions of release as usually imposed. If any such application is filed by the



petitioner same to be disposed of within **30** days from the date
of filing of said application.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

