

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5561 of 2020

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Tirupati Enterprises through its partner Harishankar Prasad, aged about 50 years, Male, S/o Late Ramchandra Prasad, R/o-Rajendra Chauk, Sihauta Bazar, Maharajganj, P.S.-Maharajganj, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Saran at Chapra.
3. The Excise Commissioner, Bihar, Patna.
4. The Superintendent of Excise, Saran at Chapra.
5. The Superintendent of Police, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Satyendra Rai
For the Respondent/s : Mr.Kumar Manish (Sc5)

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

Date : 10-07-2020

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

Petitioner has prayed for the following relief:-

“For issuance of a writ in the nature of Mandamus or
any other appropriate writ/ writs/ order/ orders direction/
directions commanding the respondents to release the
Mahindra Supro Maxitruck bearing Registration No.
BR29GA-8127, Chassis No. MA1FH2HLWK6B55253 and
Engine No. HLK6b15280 in favour of petitioner which has
been seized in connection with Ekma PS Case No. 22 of 2020



registered for the offence punishable under Section 37(b) of Bihar Prohibition and Excise Act, 2016 and Section 185 of the M.V Act on 19.01.2020, seized for the alleged violation of Excise Act.”

FIR was instituted under 37(b) of the Bihar Prohibition and Excise Act, 2016, against the driver of the vehicle bearing Registration No. BR29GA-8127, who was found in a drunken condition while driving the vehicle giving rise to Ekma PS Case No. 22 of 2020.

Petitioner claims to be owner of the vehicle and there is no allegation of recovery of any illicit liquor from the vehicle as such, the vehicle is not liable for confiscation.

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).

As the seized vehicle is not liable for confiscation, bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and the Special Court (Excise) can exercise jurisdiction under Section 451 of Cr.P.C 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.P.C for release of vehicle before the concerned Special Court (Excise), where the trial of case arising out of Ekma PS Case No. 22 of 2020 is pending and the Special Court is directed to dispose of such petition within 30 days from the date of filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

