

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6765 of 2020

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Mintu Kumar Son of Ramcheli Rai, Resident of Village-Punarwara, P.S.
Runni Saidpur, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise and Prohibition Department, Bihar, Patna.
2. The Principal Secretary, Department of Home, Bihar, Patna
3. The District Magistrate,, Saran at Chapra.
4. The Superintendent of Police, Saran at Chapra.
5. The Officer-In-Charge, Awatar Nagar Police Station, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar
For the Respondent/s : Mr.Lalit Kishore (Ag)

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

Date : 01-07-2020

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

Petitioner has prayed for the following relief:-

“For issuance of an appropriate order(s) /
direction(s) /writ(s) directing the respondent to release the
Truck, bearing Registration No. BR-06-GA-0548, Chassis
No. MATA466405 B2E11924, Engine No.
B59180311E63137023 has been seized in connection with
Awatar Nagar PS Case No. 231/2019 (Dated. 10.11.2019)
registered for offences u/s 279, 336 of IPC and u/s 37(c) of



Prohibition and Excise Act, 2016, in favour of the petitioner who is registered owner of the vehicle.”

FIR was instituted under section 279 and 336 of IPC and 37(c) of the Bihar Prohibition and Excise Act, 2016, against the driver of the vehicle bearing registration No. BR-06-GA-0548, who was driving the vehicle in a rash and negligent manner and was found in a drunken condition while driving the vehicle giving rise to Avatar Nagar PS case No. 231 of 2019.

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.

It has been submitted on behalf of petitioner that no confiscation proceeding has been initiated. However, even if, any confiscation proceeding has been initiated, same is to be dropped by the confiscating officer, in view of decision of appellate authority as referred above.

It is further submitted that petitioner had filed an application for release of his vehicle before the learned 2nd Additional Sessions Judge cum Special Judge (Excise), Saran, however, after hearing the parties his application was rejected on 27.02.2020 (Annexure-10) on the ground that in view of Section 60 of the Act, Special Court had no jurisdiction to release the vehicle. However, as stated above, the seized vehicle was not liable for confiscation and as such bar of Section 60 of the Act was not applicable and Special Court has jurisdiction to entertain application for release of vehicle on terms and conditions as usually imposed. Accordingly, the order dated 27.02.2020 is set aside.

The writ petition is disposed of with a direction to the Special Court (Excise), Saran, to pass a fresh order on petition



filed by petitioner under Section 451 of Cr.P.C for release of his vehicle in special case arising out of Avatar Nagar PS case No. 231 of 2019, within 30 days from the date of receipt/production of a copy of the order passed by this Court.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

