

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7583 of 2020

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Ajanash Mahto, S/o Late Bharosi Mahto, Resident of Village-North Bhadas,
P.S.-Muffasil Khagaria, District-Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary Bihar Excise Department at Patna.
2. The Excise Commissioner, Bihar Excise Department at Patna.
3. The Collector of District Khagaria at Khagaria
4. The Superintendent of Police Khagaria at Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Binod Kumar, Adv, Mr. Arun Kumar Gupta, Adv.
For the Respondent/s	:	Mr.Vivek Prasad (GP-7)

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

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

Date : 14-09-2020

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

Petitioner has prayed for following relief:-

“ This writ application is being filed
on behalf of above named petitioner
for giving direction to respondent to
release total Rs. 401500/- detail as
follow Rs. 2000 x 21, Rs. 500 x 659,



Rs. 200 x 1500/- which was seized in connection with Khagaria (Muffasil) P.S. Case No. 788 of 2019 for offence under Section 30(a) of Bihar Prohibition and Excise Act, 2018.”

Informant is a police officer who has alleged in his self-statement that he received a confidential information that Subodh Mahto and Ajnash Mahto are indulged in sale of illicit liquor from their house and on receiving said information he raided the house along with other police personnel and on search of his house illicit foreign liquor was recovered along with cash of Rs. 401500/- and Ajnash Mahto was arrested and illicit liquor and cash was seized for which FIR was lodged giving rise to Khagaria (Muffasil) P.S. Case No. 788 of 2019 for offence under Section 30(a) of Bihar Prohibition and Excise Act, 2018.

As recovered and seized cash is not liable for confiscation under section 56 of the Excise Act, as such, bar of jurisdiction in confiscation under section 60 of the Excise is not applicable and the special court excise has jurisdiction to pass order for release of cash during pendency of trial. It appears from Annexure of writ petition that concern police station has



submitted a report in the court of Special Judge, Excise that it has no objection if the cash is release in favour of petitioner.

The writ petition is disposed of with liberty to petitioner to file a petition before the special court excise under section 451 of Cr.P.C. and if any such petition is filed for release of cash the special court excise shall disposed of such petition within 30 days from its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

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

