

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7180 of 2020

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Rama Shankar Singh S/o Late Damari Singh R/o- Vill.- Saha Dumti, P.S.-
Kargahar, Distt.- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Excise Department,
Patna, Bihar.
2. The District Magistrate Vaishali at Hazipur.
3. The Superintendent of Police Vaishali at Hazipur.
4. The Station House Officer Sadar Police Station, Hazipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jai Prakash Singh, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC11

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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 : 03-09-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

- i. For release of the petitioner's truck bearing UP65AT5624
which has been seized by the respondent in Hazipur (Town)
P.S. Case No. 24/2020 dt. 11.01.2020, u/s 279/304(a) and
37(c) of Bihar Prohibition and Excise Act, 2016.
- ii. For any other relief/reliefs as the petitioner is entitled for in
the facts and circumstances of the case."



Informant is a police officer who has alleged in his written complaint that on 11.1.2020 he along with other police personnel were on morning patrolling duty when he saw a truck being driven in a rash and negligent manner which hit a person causing fracture of his right leg and he was taken to hospital, however, he died during treatment. The driver of the truck was apprehended who was found in a drunken condition and accordingly the truck was seized giving rise to Hazipur (Town) P.S. Case No. 24/2020 dt. 11.01.2020, u/s 279/304(a) and 37(c) of Bihar Prohibition and Excise Act, 2016.

As the driver of the truck was found in a drunken condition and there was no recovery of any illicit liquor from said truck as such truck is not liable for confiscation and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and the Special Court, Excise where the excise case is pending has jurisdiction to pass an order for release of the truck. Accordingly, the order dated 2.3.2020 passed by Special Judge, Excise, Vaishali at Hazipur in Hazipur Sadar P.S. Case No. 24 / 2020 is set aside.

The Special Court, Excise is directed to pass a fresh order on petition dated 17.2.2020 within 15 days from the date of receipt/production of a copy of order passed by this Court.



With aforesaid observation and direction, this writ
petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

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

