

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7479 of 2020

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Ambika Kumar Gupta Son of Sri Lakshman Prasad Gupta Resident of
Village/Mohalla-Koiribari, Nadraganj, Police Station-Civil Line, District-
Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Bihar, Patna.
2. The District Collector, Gaya.
3. The Superintendent of Police, Gaya.
4. The Officer Incharge of Police, Bodhgaya, District-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Virendra Prasad
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 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 : 11-09-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

- (i) “This is an application for a direction to the respondents to release the vehicle i.e. Car bearing registration no. BR 02AA-3054 of the petitioner by which the said vehicle has been seized in connection with Bodh Gaya P.S. Case No. 90 of 2020 under Section 279 IPC and 37(1) of Bihar Prohibition and Excise Act 2016 only because the driver of the vehicle was found in “Alcoholic”. No alcohol has been recovered from the possession of the vehicle



and also not used for transportation.

- (ii) That the case of the petitioner disposed of in the light of judgment/order passed by this Hon'ble Court in C.W.J.C. No.5049/2018, because the petitioner case is fully covered the said judgment.
- (iii) That any other relief or reliefs for which the petitioner is entitled may be granted by the Hon'ble Court."

Driver of the seized vehicle was found driving the car in a drunken condition which met with an accident with another car and accordingly the driver was apprehended and the car was seized giving rise to Bodh Gaya P.S. Case No. 90 of 2020 under Section 279 IPC and 37(1) of Bihar Prohibition and Excise Act 2016.

Petitioner claims to be owner of the vehicle. As the driver of the vehicle was found in a drunken condition and there was no recovery of any illicit liquor from said vehicle as such seized vehicle 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 vehicle.

The writ petition is disposed of with liberty to petitioner to file a petition under Section 451 of Cr.P.C. for release of the vehicle and the Special Court, Excise is directed



to dispose of such petition within 30 days from the date of its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

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

