

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7244 of 2020**

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Kaushal Kishore Pandey Son of Late Gangadhar Pandey, Resident of  
Bhagwanpur Chowk, Rewa Road, Infront of Dharam Kanta, P.S.-Muzaffarpur  
Sadar, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,  
Govt. of Bihar, Patna.
2. The District Magistrate, Saran.
3. The Superintendent of Police, Saran.
4. The Officer In Charge, Bheldi Police Station, Saran.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Amit Kumar Jha, Adv

For the Respondent/s : Mr.Lalit Kishore (AG) & Mr. Vivek Prasad GP-7

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE S. KUMAR)**

**Date : 26-08-2020**

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

Petitioner has prayed for the following relief:-

“(i)For issuance of order, direction or writ of  
mandamus or any other appropriate writ for commanding  
the respondent authorities to release the truck of the  
petitioner having registration number BR 01GA 7594,  
Chassis No. MAT42603192P22746, Engine No.  
B591452090M62823744 seized by Bheldi Police in  
connection with Bheldi P.S. Case No. 45 of 2020 dated



16.02.2020 registered under Sections 279, 337, 338 of the Indian Penal Code and 37(b)(c) of Bihar Prohibition and Excise Act, 2016.

(ii) For issuance of order, direction or writ of certiorari or any other appropriate writ to quash the order dated 05.03.2020 passed by the learned 2<sup>nd</sup> Additional Sessions Judge-cum-Special Judge (Excise), Saran wherein and whereby the learned court was pleased to reject the application of the petitioner for release of truck bearing registration no. BR-01-GA-7594 as not maintainable.”

Allegation against driver of the seized truck is driving the vehicle in a rash and negligent manner in a drunken condition causing accident giving rise to Bheldi PS Case No. 45 of 2020 dated 16.02.2020 instituted for the offences punishable under Section 279, 337 and 338 of IPC and Section 37(b) (c) of Bihar Prohibition & Excise Act, 2016.

As there is no allegation of recovery of any illicit liquor from the seized truck, same is not liable for confiscation under section 56 of the Bihar Prohibition & Excise Act, 2016 and the Special Court (Excise) where the criminal case is pending has jurisdiction to pass order of release of seized truck.

Writ petition is disposed of with liberty to petitioner who is owner of the truck to file an application under Section 451 of Cr.P.C for release of his truck in the concerned Special Court (Excise) who shall dispose of such petition within 30 days



from the date of its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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