

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.1083 of 2020**

**In**  
**Civil Writ Jurisdiction Case No.7190 of 2020**

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Nagendra Yadav, Son of Munshi Yadav R/o Village- Farahua, P.S.- Merawa,  
District- Siwan (Driver of Tankarlorry bearing No. NL01L0911).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Superintendent of Police, Patna.
4. The Officer-in-Charge, Agamkuan, P.S.- Agamkuan, District- Patna.

... .. Opposite Party/s

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

**Appearance :**

For the Petitioner/s : Mr.Munna Kumar, Adv  
For the Opposite Party/s : Mr. Vivek Prasad GP-7

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE S. KUMAR**  
**ORAL ORDER**

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

2      23-12-2020                      Heard learned counsel for the parties.

This application has been filed by the petitioner  
for modification in the judgment and order dated



26.08.2020 passed in CWJC No. 7190 of 2020, for issuance of a direction to the D.M. Patna for releasing the cash of Rs. 69,200/- and vivo mobile company Jio SIM No. 9304164307.

Learned counsel for the petitioner submits that petitioner has filed representation before the D.M. Patna in view of the judgment and order of this court dated 26.08.2020 passed in CWJC No. 7190 of 2020, but D.M. Patna, has denied to release the seized cash of Rs. 69,200/- and vivo mobile company Jio SIM No. 9304164307, stating that he has no power/jurisdiction to release the same.

As recovered and seized cash and mobile SIM 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 Act is not applicable and the Special Court (Excise) has jurisdiction to pass order for release of cash during pendency of trial.

The modification application is disposed of with liberty to petitioner to file a petition before the Special Court (Excise) in place of D.M. Patna, in Agamkuan P.S. Case No.230 of 2020 (Special Case No. 2856 of 2020) and



if any such petition is filed for release of cash and Mobile with SIM the Special Court (Excise) shall dispose of such petition within 30 days from the date of its filing.

**(Sanjay Karol, CJ)**

**(S. Kumar, J)**

Ranjan-Rajiv/-

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