

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21591 of 2019

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Basudev Prasad Son of Late Baleshwar Ray, R/o Mohalla Athmalgola
Bahadurpur, P.s. Agamkuan, District- Patna- 803211.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Govt. of Bihar, Patna.
2. The SHO, Agamkuan Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prakash Kumar
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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

Date : 02-07-2020

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

Petitioner has prayed for the following relief:-

“For a direction to the Special Court, Bihar
Prohibition and Excise Act, Patna to release the seized Tempo
(auto riksha) bearing No. BR-01GF-7922 kept at the premises
of Agamkuan Police Station seized under the offence of
Section 279/504 of the Indian Penal Code and 37(C) of Bihar



Prohibition and Excise Amendment Act, 2018 in the light of the letter dated 10.02.2019 given by the Agamkuan Police Station to the Special Court, Bihar Prohibition and Excise Act, Patna to release the vehicle as the same is not required in the above case ”.

FIR was instituted under section Section 279/504 of the Indian Penal Code and 37(C) of Bihar Prohibition and Excise Amendment Act, 2018, against the driver of the vehicle bearing Registration No. BR-01GF-7922, who was found in a drunken condition while driving the vehicle giving rise to Agamkuan PS Case No. 17 of 2019.

Petitioner claims to be owner of the vehicle and since there is no recovery of any illicit liquor and allegation is against the driver of driving Auto-Rickshaw in a drunken condition as such, Auto-Rickshaw is not liable for confiscation and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable, as such concerned Special Court (Excise) can exercise jurisdiction under Section 451 of Cr.P.C for release of the vehicle during pendency of criminal trial.

The writ petition is disposed of with liberty to petitioner to file a petition under Section 451 of Cr.P.C for release of vehicle before the concerned Special Court (Excise), where the trial of case arising out of **Agamkuan PS Case No.**



17 of 2019 is pending and the Special Court is directed to dispose of such petition within 30 days from the date of filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

