

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18967 of 2019

Prakash Kumar Son of Sri Devendra Lal Das Resident of D-104, Patligram Apartment, Bajrangpuri, Gai Ghat, Gulzarbagh, P.S. Alamganj, Patna District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Excise, Prohibition and Registration Department, Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Patna.
3. The Superintendent of Excise, Patna.
4. The Superintendent of Police, Patna.
5. The Officer In charge, Kotwali Police Station, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pankaj Maijorwar

For the Respondent/s : Mr.Vikash Kumar (Sc11)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-07-2020

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

Petitioner has prayed for the following relief:-

“For direction/order to the Respondents No. 2 &
5 to release the vehicle(car) bearing registration number
BR01EE-0655 in favour of the petitioner, which had been
seized in connection with Kotwali PS Case No. 420 of
2019 dt. 12/05/2019 registered under Section 37(b)(c) of
the Bihar Excise & Prohibition Act, 2016 and Section 279
of Indian Penal Code.”



FIR was instituted under Section 37(b)(c) of the Bihar Prohibition & Excise Act, 2016 and Section 279 of Indian Penal Code, against the driver and the other occupant of the vehicle bearing registration No. BR01EE-0655, which was being driven in a rash and negligent manner and both were found in a drunken condition giving rise to Kotwali PS Case No. 420 of 2019 dated. 12/05/2019.

Petitioner claims to be owner of the vehicle and there is no allegation of recovery of any illicit liquor from the vehicle as such, the vehicle is not liable for confiscation.

It has been submitted by learned counsel for the State that in case of no recovery of any illicit liquor from the vehicle, the vehicle is not liable for confiscation and same has been decided by the Excise Commissioner, Bihar, Patna, in appeal of confiscation being Case No. 107 of 2019 (arising out of Tariyani P.S. Case No. 184 of 2018) titled as (Ajit Rai & Ors Vs. The Collector, Sheohar).

As the seized vehicle is not liable for confiscation, bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and the Special Court (Excise) can exercise jurisdiction under Section 451 of Cr.P.C for release



of the vehicle during pendency of criminal trial.

It has been submitted on behalf of petitioner that no confiscation proceeding has been initiated. However, even if, any confiscation proceeding has been initiated, same is to be dropped by the confiscating officer, in view of decision of appellate authority as referred above.

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 Special Court (Excise), Patna, where the trial of case arising out of Kotwali PS Case No. 420 of 2019 dated 12.05.2019, 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

