

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20760 of 2019

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Shailendra Kumar Son of Birendra Chaudhari, Resident of Village-Chhapiya
Buzurg, P.S. Hussainganj, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Excise Department, Government of Bihar, Patna.
2. The Commissioner, Excise Department, Bihar, Patna.
3. The Superintendent of Excise, Siwan.
4. The Collector-Cum-District Magistrate, Siwan.
5. The Superintendent of Police, Siwan.
6. The S.H.O. Siswan (Chainpur O.P.) Police Station, District Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ramadhar Shekhar
For the Respondent/s : Mr.Kumar Manish (Sc5)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 01-07-2020

Heard learned counsel for the petitioner and learned

counsel for the respondents.

Petitioner has prayed for the following relief:-

“An appropriate writ/writs, order/orders, direction/directions in the nature of Mandamus, commanding and directing the respondent authorities to release the seized Maruti Suzuki Dzire VXi vehicle bearing registration no. DL-3CAW-9929 of 2008 model bearing Engine No.G13BBN472709, Chassis No. MA3EKE42S00147637, seating capacity 6, in favour of the petitioner, who is bonafide and rightful owner of the aforesaid vehicle which has been seized in connection with Siswan (Chainpur O.P.) PS Case No. 13/19 dated 14.01.19 registered under section 37(b) of Bihar Prohibition and Excise Act, 2016.”



FIR was instituted under section 37(b) of the Bihar Prohibition and Excise Act, 2016, against the driver of the vehicle bearing registration No. DL-3CAW-9929, who was found in a drunken condition while driving the vehicle giving rise to Siswan (Chainpur O.P.) PS Case No. 13/19 dated 14.01.19.

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 concerned Special Court (Excise), where the trial of special case arising out of Siswan (Chainpur O.P.) PS Case No. 13/19 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

