

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22019 of 2019

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Santosh Kumar Chaudhary @ Santosh Chaudhary Son of Chinta Chaudhary

R/o Nawada, P.S.-Barh, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Bihar Prohibition and Excise Department, Bihar, Patna.
2. The Principal Secretary, Bihar Prohibition and Excise Department, Bihar, Patna.
3. The District Magistrate, Patna Distt.-Patna.
4. The Superintendent of Police, Distt. Patna.
5. The Thana Incharge Barh P.S. Barh, Distt.-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rabindra Prasad Singh
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

4 07-07-2020 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner has prayed for following relief:-

“1.This writ petition is being filed on
behalf of the petitioner for issuance of an



appropriate order/ orders/ direction/ directions writ in the nature of Mandamus directing and commanding to the Respondents to release Piayo Tempo No. BR-01-PF-2616 of the petitioner which was seized by the Police in connection with Barh P.S. Case No. 63 of 2019 dtd 8.2.2019 offence u/s 37(2) Bihar Prohibition and Excise Act, 2016.”

FIR was instituted under section 37(2) of Bihar Prohibition and Excise Amendment Act, 2018, against the driver of the vehicle bearing Registration No. BR-01-PF-2616, who was found in a drunken condition while driving the vehicle giving rise to Barh PS Case No. 63 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 Barh PS Case No. 63 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)

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