

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25072 of 2019

=====

Kush Kumar, Son of Subhash Ray, Resident of Village- Maner, Police Station- Maner, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition and Excise Department, Bihar, Patna.
2. The Commissioner, Excise and Prohibition Department, Bihar, Patna.
3. The District Magistrate, Patna.
4. The Senior Superintendent of Police, Patna.
5. Police Inspector-cum-Officer In charge, Kotwali Police Station, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Sayed Imran Ghani
For the Respondent/s : Mr.Kumar Manish (Sc5)

=====

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

Date : 07-07-2020

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

Petitioner has prayed for following relief:-

“(i) For issuance of appropriate writ(s), order (s) or direction (s) in the nature of mandamus commanding and directing the respondents authorities to release the vehicle (Motorcycle) Registration No. BR01CV-5921, Chasis No.ME4JC731BG8017372, which was seized on 11.07.2019 in connection with



Patliputra P.S. Case No. 278/2019 (Spl. Case No. 6089/2019) in Bihar Excise and Prohibition Act 2016.”

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.

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 being Spl. Case No. 6089/2019 arising out of Patliputra P.S. Case No. 278/2019 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)

Sanjay/ranjan-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2020
Transmission Date	NA

