

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22634 of 2019

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Ram Pravesh Kumar S/o Late Ram Krit Saw, R/o-Village Piplawan, P.O.-
Jaitipur, P.S.-Naubatpur, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Department,
Government of Bihar, Old Secretariat, Patna-800001.
2. The Secretary, Excise Department, Vikash Bhawan, Bailey Road, Patna,
Bihar-800001.
3. The District Magistrate, Patna. Collectorate Officer, Gandhi Maidan, P.S.-
Gandhi Maidan, Patna.
4. The Officer-in-Charge of Bihta Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Deovind Kumar Singh
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 THE CHIEF JUSTICE)

Date : 03-07-2020

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

Petitioner has prayed for the following relief:-

“That this Civil Writ application is for issuance of
appropriate writ/orders/directions commanding the
respondents to release the Tractor, bearing its Registration No.
BR01GE4716, Chassis No. T053277187, Engine No.
E3308351 and Trailer bearing its registration No.
BR01GE6942 loaded with iron rod, which was seized by
Officer-in-charge of Bihta Police Station on 04.09.2019, in



connection with Bihta P.S. Case No. 843/2019, Spl. Case No. 8009/19 and it is being kept in the premises of Bihta Police Station, District- Patna.”

FIR was instituted under section 279/304A of the Indian Penal Code and Section 37(c) of the Bihar Prohibition and Excise Act, 2016, against the driver of the vehicle bearing Registration No. BR01GE4716, who was found in a drunken condition while driving the vehicle giving rise to Bihta P.S. Case No. 843/2019.

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 concerned Special Court (Excise), where the trial of Special Case being Spl. Case No. 8009/19 arising out of Bihta P.S. Case No. 843/2019 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

