

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11596 of 2021

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Ghanshyam Singh Son of Late Kartik Narayan Singh resident of Near Malang
Asthan Bhikhanpura North, P.S. sadar, District- Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
2. The Collector, West Champaran, Bettiah.
3. The Superintendent of Police, West Champaran, Bettiah.
4. The Police Inspector- cum- Station House Officer, Bettiah Mufassil Police Station.

... .. Respondent/s

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Tiwari, Adv
For the Respondent/s : Mr.Vivek Prasad (GP-7)

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

Date : 20-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief:-

“(I). To direct the respondent authorities for release of the vehicle i.e. Tractor bearing Registration No. BR06GB5339 Chesis No. RINW2059, which having been recovered, thereupon, seized by the police in connection with Bettiah Mufassil PS Case No. 13/18 dated 10.01.2018 instituted under Section 414 of IPC and 38/41 of Bihar Prohibition and Excise Act, 2016.”



It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was looted by unknown miscreants on 04.01.2018 for which he has lodged FIR giving rise to Bochaha PS Case No. 3 of 2018 for the offence punishable under Section 394 of IPC and same was recovered by the police giving rise to Bettiah Muffasil PS Case NO. 13/19 dated 10.01.2018 for the offence punishable under Section 414 and 38/41 of the Bihar Prohibition and Excise Act, 2016.

Counter affidavit has been filed by the respondents and it has been stated in paragraph no. 9 that the police has not recovered liquor in the tractor and that's why recommendation for initiation of confiscation proceeding before the District Magistrate, West Champaran, Bettiah for confiscation of the tractor has not been sent by Superintendent of Police, West Champaran, Bettiah.

In such view of the matter, as the seized tractor is not liable for confiscation under Section 58 of the Excise Act, bar of jurisdiction in confiscation under section 60 of the Excise is not applicable and the Special Court (Excise) has jurisdiction to pass order for release of seized tractor. Learned Special Judge had also observed in its order that a report from the police was also called and police has filed report dated 04.11.2018 in which



I.O. has stated that from verification of DTO Office, petitioner is owner of the vehicle and chargesheet has been submitted and police has no objection if court passes the order to release the vehicle.

Accordingly, the order dated 11.11.2019 passed by Special Judge, Excise, Bettiah, West champaran in Trial No. 196 of 2019 arising out of Muffasil PS Case No. 13 of 2018 is set aside and the learned Special Court (Excise) is directed to pass afresh order on the petition filed by petitioner for release of vehicle within 30 days from the date of receipt/production of copy of the order passed by this Court.

With said observations and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

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

