

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2173 of 2021

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Amarnath Ray @ Amar son of Jogendra Ray @ Yogendra Ray resident of
Village- Pohiyan @ Pohiya, Police Station- Garkha, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar at Patna.
2. The District Magistrate, Saran at Chapra.
3. The Superintendent of Police, Saran at Chapra.
4. The S.D.O. Sadar, Saran at Chapra.
5. The S.H.O. Garkha, Police Station, District- Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Rajesh Kumar Singh, Adv
For the Respondent/s : Mr. Kumar Manish SC-5

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

Date : 23-02-2021

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

Petitioner has prayed for the following relief:-

"That this is an application being filed for issuance
of appropriate writ or writs, direction or directions , order or
orders commanding the competent authorities to release the
EICHER Tractors bearing Registration No. BR-04GA-8232,
Chassis No. 928613165254, Engine No. S325K54466 in



favour of the petitioner which has been seized in connection with Garkha P.S. Case No. 704 of 2019 after setting aside the order dated 09.07.2020 passed by the learned court of 2nd Additional Sessions Judge-cum-Special Judge (Excise) Saran vide Garkha P.S. Case No. 704 of 2019 on dt. 22.11.99 registered under sections 279, 337, 338 of IPC and under Section 37(c) of Bihar Prohibition and Excise Act, 2016."

Allegation against driver of the seized Tractor is driving the Tractor in a rash and negligent manner in a drunken condition causing accident giving rise to Garkha P.S. Case No. 704 of 2019 dated 22.11.1999 instituted for the offences punishable under Sections 279, 337, 338 of IPC and under Section 37(c) of Bihar Prohibition and Excise Act, 2016.

As there is no allegation of recovery of any illicit liquor from the seized Tractor, same is not liable for confiscation under section 56 of the Bihar Prohibition & Excise Act, 2016 and, as such, bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and the Special Court (Excise) where the criminal case is pending has jurisdiction to pass order of release of seized Tractor.

In view of the above, the order dated 09.07.2020 passed by learned 2nd Additional Session Judge-cum-Special



Judge (Excise), Saran, is hereby set aside and writ petition is disposed of with direction to Special Court, Excise to pass a fresh order on petition for release of seized vehicle within 30 days from the date of receipt/production of copy of this order.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.03.2021
Transmission Date	NA

