

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10058 of 2020

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SHAMBHU SAH, Son of Shankar Sah, Resident of Jawahar Chowk, Mahua,
P.s.-Mahua, District-Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Director general of Police, Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Inspector General of Police, Bihar, Patna.
5. The District Magistrate/Collector, Vaishali at Hajipur
6. The Superintendent of Police, Vaishali at Hajipur
7. The Officer-In-Charge of Mahua Police Station, District-Vaishali
8. The Investigation Officer of Mahua P.S. Case no. 01/2020, Mahua Police
Station, District-Hajipur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate
For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-01-2021

Heard the parties.

Petitioner has prayed for following relief:-

“ to release the cash amount of Rs.63,600/- in
favour of the petitioner which was seized from
the house of petitioner on 01.01.2020 during
course of alleged search made in connection with



Mahua P.S. Case No. 01/2020 registered for the offence under section 30(a), 32(ii), 34(ii), 38(ii), 41(i) of Bihar Prohibition and Excise Act 2016.”

Informant is a police officer who has alleged in his self-statement that on 01.01.2020, he received an information to the effect that Saroj Rai and Vijay Rai have stored illicit liquor near a canal situated in the village Bishunpur Taraura whereupon he reached there and recovered total 420 litre and 120 ml of Indian Made Foreign Liquor. Subsequently, the informant received an information to the effect that Shambhu Sah and Arjun Kumar have kept liquor in their house. After having received such information, the informant raided the house along with other police personnel and on search of his house illicit foreign liquor was recovered along with cash of Rs. 65000/- and Shambhu Sah and Arjun Kumar were arrested. The illicit liquor and cash were seized for which FIR was lodged giving rise to Mahua P.S. Case No. 01 of 2020 for offence under Sections 30(a), 32(ii), 34(ii), 35(ii), 41(ii) of the Bihar Prohibition and Excise Act, 2018.

Since the recovered and seized cash is not liable for confiscation under section 56 of the Excise Act, as such, bar of



jurisdiction in confiscation under section 60 of the Excise Act is not applicable and the concerned Special Court, Excise has the jurisdiction to pass order for release of cash during pendency of trial.

The writ petition is disposed of with liberty to petitioner to file a petition before the concerned Special Court, Excise under Section 451 of Cr.P.C. and if any such petition is filed for release of cash in question, the concerned Special Court, Excise shall disposed of such petition within 30 days from its filing.

(Sanjay Karol, CJ)

(Prabhat Kumar Singh, J)

Ashwini/-Anil

AFR/NAFR	
CAV DATE	
Uploading Date	19.01.2021
Transmission Date	

