

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15518 of 2021

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Abhay Kumar Das S/O Kailash Ram, Resident of Village - Tisiauta
Dharampur, P.S. - Tisiauta, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar .
2. The Superintendent of Police Saran at Chapra.
3. The Station House Office, P.S. Maker, Saran.

... .. 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.Ram Shankar Das, Adv
For the Respondent/s : Mr.Md. N.H. Khan (SC1)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)
Date : 14-09-2021

Heard learned counsel for the parties.

Petitioner has filed this writ application for following

relief(s):-

“To direct the Respondents to release the Commercial vehicle Swift Desire forthwith having its Regd. No. WB25G4762, Vehicle Engine No. D13A5353716, Chesis No. MBLHA10BS-FHF57426, which has been seized in connection with Maker P.S. Case No. 167 of 2019, which was registered on 18.10.2019, where the police not recovered wine or liquor from the said vehicle. The accused booked the vehicle through the UBER CAB.”

It is submitted by learned counsel for the petitioner that

no illicit liquor was recovered from the vehicle and

occupants/accused were found in a drunken condition and arms were recovered from their possession and accordingly FIR was instituted u/s 399 and 402 of the Indian Penal Code, Section 25(1-B)A/26/35 of the Arms Act and Section 37(B)(C) of Bihar Prohibition and Excise Act.

As there is no recovery of illicit liquor from the seized vehicle, same is not liable for confiscation under Section 56 of the Excise Act and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and the Special Court (Excise) where the excise case is pending has jurisdiction to pass order for release of the vehicle.

The writ petition is disposed of with liberty to petitioner to file a petition under Section 451 of Cr.P.C. for release of the vehicle and the Special Court (Excise) where the excise case is pending is directed to dispose of such petition within 30 days from the date of its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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