

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9844 of 2020

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Manoj Kumar Tiwary @ Manoj Tiwary, Son of Bake Tiwary @ Banke Tiwary
Resident of Village- Papwar, P.S. Pachrukhi Sarai, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Patna.
2. The District Magistrate, Kishanganj.
3. The Superintendent of Police, Kishanganj.
4. The Officer-In- Charge, Kochadhaman P.S., District- Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravish Mishra, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-01-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“(i) For commanding the Respondents to immediately release the cash amounting to Rs.9,35,000/-, belonging to the petitioner, which has been seized in most arbitrary and malafide manner pursuant to institution of Kochadhaman P.S. Case No. 243/2020, dated 05.10.2020 for offences alleged under section 30(a)/37(c) of the Bihar Prohibition and Excise Act, 2016.

(ii) For any other appropriate relief/reliefs to which the petitioner is found entitled to in the facts and circumstances of this case.”

Informant is a police officer who has alleged in his self-statement that on 04.10.2020 at about 2:30 pm in the night during course of checking vehicle bearing registration no.



BR01DZ-0752, cash of Rs. 9,35,0000/- along with illicit liquor were recovered and seized, for which FIR was lodged giving rise to Kochadhaman P.S. Case No. 243 of 2020, for the offences punishable under Sections 30(a)/37(c) of Bihar Prohibition and Excise Act, 2016.

As 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 Special Court (Excise) has 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 Special Court (Excise) under section 451 of Cr.P.C., and if any such petition is filed for release of cash, the Special Court (Excise) shall dispose of such petition within 30 days from its filing.

(Sanjay Karol, CJ)

(Anjani Kumar Sharan, J)

Ashwini/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.01.2021
Transmission Date	NA

