

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3067 of 2022

=====

Vishal Kumar Agrawal S/o Sri Ishwar Lal Agrawal, R/o Ashok Rajpath, Near
Jhauganj Post Office, Patna City, P.S. - Chawk, Distt. - Patna-8, Proprietor of
M/s Shri Shyam Steel, Didarganj, Patna City, Patna-9.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Cum Commissioner,
Department of Prohibition and Excise, Govt. of Bihar, Patna.
2. The District Magistrate Cum Collector, Aurangabad.
3. The Superintendent of Police, Aurangabad.
4. The Officer In Charge, Barun Police Station, Aurangabad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Prakash Chandra Agrawal, Adv
For the Respondent/s	:	Mr.Kumar Manish (SC5)

=====

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

Date : 01-04-2022

Heard learned counsel for the parties.

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

“That the present writ application is being filed
for setting aside the order dated 01.02.2022 passed in
Barun P.S. Case No. 461 of 2021, by the **Special Excise**
Judge-1, Aurangabad, and for a direction for release of
goods (Sponge Iron) loaded over the truck, illegally seized

by police in connection with **Barun P.S. Case No. 461 of 2021** registered under sections 30(a) of the **Bihar Prohibition and Excise (Amended) Act, 2018.**

It has been further submitted by learned counsel for the petitioner that petitioner has filed application before the learned Special Judge (Excise)-I, Aurangabad, for release of seized Sponge Iron, but the Special Judge (Excise), vide order dated 01.02.2022 rejected the prayer of the petitioner on the ground that Special Court (Excise) has no jurisdiction to pass any order in view of bar of jurisdiction in confiscation under Section 60 of the Excise Act.

As recovered and seized goods i.e. Sponge Iron, 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 is not applicable and the Special Court (Excise) has jurisdiction to pass order for release of seized goods during pendency of trial.

For the reasons as stated above, the order dated 01.02.2022 passed by learned Special Judge (Excise)-I, Aurangabad is set aside.

The writ petition is disposed of with liberty to petitioner to file a petition before the Special Court (Excise)

where the excise case is pending under section 451 of Cr.P.C.

and if any such petition is filed for release of seized good i.e.

Sponge Iron, the Special Court (Excise) shall dispose of such

petition within 30 days from its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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