

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2902 of 2022

Amrendra Kumar Jha, Son of Tara Kant Jha, Resident of 23/3/C-Shib
Krishna Daw Lane, P.S. Kankurgachi, Kolkata, West Bengal - 700054.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary Cum commissioner,
Department of Excise, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Banka.
4. The Superintendent of Police, Banka.
5. The Officer - in - Charge, Katoriya Police Station, District- Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Jha, Advocate
For the Respondent/s : Mr.Vivek Prasad (Gp7)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

**(The proceedings of the Court are being conducted through
Video Conferencing and the Advocates joined the proceedings
through Video Conferencing from their residence.)**

Date : 22-04-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

- (i) For issuance of Writ in the nature of certiorari to quash the order dt.10.08.2021 passed by the Court of Learned Additional Sessions Judge- II, Banka ^{as contained in Annexure-4} in Katoriya P.S. Case No. 125 of 2021, by which the prayer of release of vehicle/ Tanker bearing Registration No. NL01L9564 has been rejected, which vehicle/Tanker was said to be seized in connection with Katoria P.S. case No. 125 of 2021.

(ii) For issuance of an appropriate Writ, rule or direction in the nature of Writ of mandamus commanding and directing the respondents particularly the Respondent No. 3 to 5 to immediately release the vehicle (TANKER) bearing Registration No. NL01L 9564 of this petitioner which has been seized by the Respondent No. 5 in connection with Katoriya P.S. case No. 125 of 2021 dated 10.05.2021 registered Under Section 279,337 of I.P.C. and 37 (b) of the Bihar Prohibition & Excise Act, 2016 as contained in Annexure-3.

(iii) And/Or Pass such other order or orders as deem fit and proper in the interest of justice.

Allegation against driver of the aforesaid tanker is of driving the vehicle in a drunken condition. There is no allegation of recovery of any illicit liquor from the seized vehicle.

As there is no allegation of recovery of any illicit liquor from the seized vehicle, same is not liable for confiscation under section 56 of the Bihar Prohibition & Excise Act, 2016 as such, bar of jurisdiction in confiscation under section 60 of the Excise

Act is not applicable and the concerned Special Court (Excise) where the criminal case is pending has jurisdiction to pass order for release of seized motorcycle.

Writ petition is disposed of with liberty to petitioner who is owner of the seized vehicle to file an application under Section 451 of Cr.P.C for release of his seized vehicle in the concerned Special Court (Excise) who shall dispose of such petition within 30 days from the date of its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.05.2022
Transmission Date	NA