

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7967 of 2022

=====

Rajesh Kumar S/o Ram Prabesh Singh Resident of Vilalge-Indrarh, P.S.-
Rafiganj, District-Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar.
2. The Excise Commissioner, Bihar, Patna.
3. The Collector Cum District Magistrate, Aurangabad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Bhaskar Shankar, Advocate
For the Respondent/s	:	Mr.Vikash Kumar (S.C. 11)

=====

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 : 08-07-2022

Heard learned counsel for the parties.

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

“(I) To issue appropriate writ(s), order(s), direction(s) in the nature of mandamus to release the Truck bearing Registration No. UP65AR-7688 which has been seized as Driver of vehicle was caught as he was found in Drunken State and accordingly FIR bearing Aurangabad (Nagar) P.S. Case No. 41/2022 lodged U/s 279, 427, 37 (b) (c) of Bihar Prohibition and Excise Act.

(II) Any other relief or reliefs which the petitioner may be found entitled to in the facts and circumstances of the case.”

It is submitted that no illicit liquor was recovered from the vehicle, as such seized vehicle is not liable for confiscation.

Allegation against driver of the seized vehicle is to be found in a drunken condition and petitioner is the owner of the seized vehicle.

It has been further submitted that seized vehicle 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 vehicle during pendency of trial.

Petitioner would be at liberty 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 vehicle the special court excise shall dispose of such petition within 30 days from the date of its filing.

Petition stands disposed of with the aforesaid observations/directions.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	