

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2165 of 2022

Arising Out of PS. Case No.-156 Year-2022 Thana- AURANGABAD TOWN District-
Aurangabad

ANIL KUMAR PANDEY S/O CHADRA DEV PANDEY Resident of
Company Sarai, Road No.- 1, Mohalla- Rauza, P.S.- Sasaram, District-
Sasaram.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pramendra Kumar Singh
For the Respondent/s : Mr. Abhay Kumar

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

3 30-08-2022 Heard learned counsel for the appellant and learned
counsel appearing on behalf of the Additional Public
Prosecution for the State.

This memo of appeal is filed against the order dated
11.05.2022 passed by the learned Special Judge-I, Excise,
Aurangabad in connection with Town P.S. Case No. 156 of 2022
for the offence punishable under Sections 279/427 of the Indian
Penal Code and section 37(b)(c) of the Bihar Prohibition and
Excise Act whereby and whereunder the petition for release of
the appellant's truck bearing Registration No. BR24GB-7887
has been rejected.

The allegation against the driver of the seized vehicle is of driving the vehicle in a rash and negligent manner in a drunken condition giving rise to Town P.S. Case No. 156 of 2022 instituted for the offences punishable under Section 279 of IPC and Section 37(b)(c) of the Bihar Prohibition and Excise Act, 2016.

Submission of learned counsel for the appellant is that the appellant has filed an application before the learned Special Judge to release the alleged vehicle in his favour as no illicit liquor was recovered from the said vehicle and as such, it is not liable for confiscation under Section 56 of the Bihar Prohibition and Excise Act, 2016 and the Special Court (Excise) where the criminal case is pending has jurisdiction to pass order of release of seized vehicle. The appellant is ready to furnish sufficient surety if the vehicle is released in his favour. Further he submits that in several identical matters, if no illicit liquor is recovered from the vehicle, the vehicle is not liable for confiscation.

Having considered the above facts and circumstances of the case and the submissions advanced on behalf of the learned counsel, the appeal is disposed of with liberty to the appellant, who is owner of the alleged Truck, to file an application under Section 451 of Cr. P.C. for release of Truck in

the concerned Special Court (Excise) who shall dispose of such
petition within 30 days from the date of its filing.

(Arvind Srivastava, J)

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