

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10059 of 2022

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Rajiv Ranjan S/o Mr. Rajendra Bharati, Resident of Akwal Ganj Post -
Sohsarai, P.S. - Rahui Imamganj, Nalanda, Bihar. PIN - 803118.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, the Department of Excise, Patna, Bihar.
2. The Commissioner, Excise and Registration Department, Patna, Bihar.
3. The District Magistrate, Nalanda, Bihar.
4. The Superintendent of Police, Nalanda, Bihar.
5. The Thana Incharge, Rajgir Thana, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Jha, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP-7)

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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 : 22-07-2022

Heard learned counsel for the parties.

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

“1. the petitioner petitioner prays for issuing the writ/writs or direction/directions or order/orders to the District Magistrate (Nalanda) to release the Vehicle (Private Case) bearing Registration no. BR-21Z-5572, Engine No. G4LFMV077084 and Chasis No. MALBH512LMM049011 which was seized on 16/02/2022 by police under Rajgir P.S. Case No. 79/2022, in sections of 279, 427 of the IPC and 37(b)(c) of Bihar Prohibition and Excise Amendment Act 2018. The petitioner further prays for direction to respondents to pay compensation for seizing the Vehicle illegally and damage

happened due to keeping the Vehicle under open sky.”

Allegation against driver of the seized vehicle is driving the vehicle in a rash and negligent manner in a drunken condition giving rise to Rajgir P.S. Case No. 79 of 2022 instituted for the offences punishable under Sections 279, 337 and 304(A) of the IPC and Section 37 (b) (c) of Bihar Prohibition & Excise Act, 2016.

It has been further submitted by learned counsel for the petitioner that petitioner has filed application before the learned Additional Sessions Judge-4-cum-Special Judge Excise-II, Biharshariff, for release of seized car bearing registration no. BR-21Z-5572, but the Special Judge (Excise), vide order dated 22.04.2022 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 there is no recovery of illicit liquor from the seized vehicle, same is not liable for confiscation under Section 56 of the Excise Act and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and the Special Court (Excise) where the excise case is pending has jurisdiction

to pass order for release of the vehicle.

For the reasons as stated above, the order dated 22.04.2022 passed by Additional Sessions Judge-4-cum-Special Judge Excise-II, Biharshariff, is set aside and Special Court (Excise) is directed to provisionally release the vehicle in question in favour of petitioner after due identification of ownership of the vehicle seized by the police in excise case on production of ownership and registration papers with respect to vehicle in question in his name and upon furnishing adequate sureties to the satisfaction of Additional Sessions Judge-4-cum-Special Judge Excise-II, Biharshariff and usual undertaking.

With said observations and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	