

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12668 of 2022

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Satyapal Pathak S/o Mahadeo Pathak Resident of Village- Amuara Tejsingh
(Amwara Tej Singh), P.S.- Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Commissioner, Excise, Bihar, Patna.
3. The District Magistrate-cum-Collector, Patna.
4. The Superintendent of Police, Patna.
5. The S.H.O. Naubatpur, District- Naubatpur.
6. The Investigating Officer of Naubatpur, P.S. Case No. 351/2022, District-
Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar, Advocate
For the Respondent/s : Mr.Kumar Manish (SC-5)

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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 : 02-09-2022

Heard learned counsel for the parties.

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

- (I) For issuance of writ in the nature of certiorari or any other appropriate writ (s), order(s), Direction(s) for quashing the order dated 06.08.2022 passed in Special Excise Case no.835/2022 (Arising out of Naubatpur P.S case no.351/2022) by which the learned Special Judge Danapur, Patna was pleased to dismissed the prayer of release of Baleno Car bearing registration no.BR06 BW- 0325 of the petitioner.
- (I) For issuance of writ in the nature of Mandamus or any other appropriate writ (s), order(s), Direction(s) to the respondents to release the Baleno Car bearing Registration No. BR06 BW- 0325 Engine No.K12MN452815 Chasis no- MBHEWB22SKA241353, Which has been seized in connection with Naubatpur P.S. Case No 351/2022 dated 04.06.2022 the offences under section 25(1-b)a,26,35 of the Arms Act and u/s 37(b)(c) of the Bihar Prohibition and Excise(Amendment) Act. 2018.
- (II) For issuance of any other appropriate writ (s), order(s), direction(s) for which the petitioner is entitled to in the facts and circumstances of the case.

Allegation against driver of the seized vehicle is driving the vehicle in a rash and negligent manner in a drunken condition giving rise to Naubatpur P.S. Case No. 351 of 2022 instituted for the offences punishable under Sections 25(1-b)a,26/35 of the Arms Act and Section 37 (b) (c) of Bihar Prohibition & Excise Act.

It has been further submitted by learned counsel for the

petitioner that petitioner has filed application before the learned Special Excise Judge Danapur (Patna), for release of seized car bearing registration no. BR-06 BW- 0325, but the Special Judge (Excise), vide order dated 06.08.2022 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. However, it is submitted that petitioner is the registered owner of the vehicle, since no illicit liquor has been recovered from the vehicle, as such, same is not liable for confiscation under Section 58 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 06.08.2022 passed by Special Excise Judge Danapur (Patna), 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 Special Excise Judge Danapur (Patna) 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	