

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12723 of 2022

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Manish Kumar son of Mithilesh Sharma, Resident of Village-
Berra, P.S.-Masaurhi, District-Patna.

Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of
Excise, Government of Bihar, Patna.
2. The Collector cum District Magistrate, Jehanabad.
3. The Superintendent of Police, Jehanabad.
4. The Officer in Charge, Jehanabad Police Station.
5. The in-charge Officer Korauna Police Out post, P.S. Jehanabad,
District Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shivendra Prasad, Advocate
For the Respondent/s	:	Mr.Kumar Manish (S.C. 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):-

- 1 That this is an application for issuance of an appropriate writ/ Writs, order/ orders, direction/ directions to the respondent authorities to release the vehicle registration number of which is BROZAZ-7155 in favour of the petitioner, which has been seized in connection with Jehanabad (Korauna O.P.) Case No. B63 of 2021 dated 24.12.2021 registered under section 37(c) of the Bihar Prohibition and Excise Act.
- 2 That the petitioner is seeking aforesaid relief(s) on the ground that:
 - (I) No wine was recovered from vehicle of the petitioner.
 - (II) The vehicle of the petitioner has been kept in police custody and it is expected to get damaged without it's proper care.
 - (III) No confiscation proceeding has been initiated against the vehicle of the petitioner.

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)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	