

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13245 of 2022**

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Arun Kumar Son of Mishri Lal Roy, Resident of Village -Ashapatti Parsauni,  
P.S. - Sahebganj, District- Muzaffarpur, at present Village - Pratappatti, P.S.-  
Sahebganj, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Prohibition and Excise  
Department, Govt. of Bihar, Patna.
2. The District Magistrate-cum-Collector, Muzaffarpur.
3. The Superintendent of Police, Muzaffarpur.
4. The Officer Incharge Sahebganj Police Station, District- Muzaffarpur.
5. The District Transport Officer, Muzaffarpur.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar, Advocate  
For the Respondent/s : Mr. Vivek Prasad (G.P.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 : 09-09-2022**

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 in the nature  
of mandamus commanding and directing the

respondent authorities to release the vehicle of Tavera Car bearing Registration No. WB20G-8050, Engine No.- 3EE17780, Chasis No.- MA6AB6G766HF17832 and Samsung Android Mobile Set bearing Mobile No. 9931967167 in favour of the petitioner which has been illegally seized and have been kept in abandoned condition in connection with Sahebganj P.S. Case No. 401 of 2021 registered under section 272,273/34 of I.P.C. and 30(a) of Bihar Prohibition and Excise Amendment Act and for any other relief/reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.

Allegation is recovery of 79.920 litre of illicit liquor from the betel shop of co-accused, namely, Dinesh Kumar, who has alleged that the aforesaid liquor has been delivered from the vehicle of the petitioner and thereafter aforesaid vehicle and one mobile were seized from the possession of the petitioner.

Petitioner claims to be the owner of the said vehicle as well as aforesaid mobile.

It is further submitted that nothing has been recovered from the vehicle of the petitioner but on the confessional

statement of co-accused, due to ulterior motive, the vehicle of the petitioner has been seized by the police in Excise Case.

In the facts and circumstances of the case, **the District Magistrate/Confiscating Officer concerned** is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle on production of ownership and registration papers with respect to vehicle in question in his/her name and on furnishing adequate sureties to the satisfaction of District Magistrate / Confiscating Authority and undertaking.

The release shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above, which would however be subject to finalization of the confiscation proceeding.

Petitioner is also at liberty to get his/her vehicle released on payment of penalty in terms of Rule 12(A) inserted by amending Bihar Prohibition and Excise Rules, 2021.

As far as recovered and seized mobile is concerned, the same 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 mobile 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 mobile, the Special Court, Excise shall dispose of such petition within 30 days from the date of its filing.

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

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

veena/rajiv-

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