

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16467 of 2022

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North Eastern Carrying Corporation Ltd. having its registered Office at NECC House, 9062/47, Ram Bagh Road, Azad Market, Delhi, New Delhi, Pin Code-110006 through its Authorised Representative Sushil Kumar Thakur, Male, aged about 54 Years, S/o Late Ramakant Thakur, R/o Village-Sant Nirankari Bhawan, Behind Om Building, Sheikhpur, P.S.-Sheikhpur, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The Excise Commissioner, Prohibition, Excise and Registration Department, Government of Bihar.
3. The District Magistrate, East Champaran.
4. The Superintendent of Police, East Champaran.
5. The Officer in Charge, Police Station-Rajepur, District-East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rohit Raj, Advocate
For the Respondent/s : Mr.Kumar Manish (SC5)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-12-2022

Heard learned counsel for the petitioner and learned counsel for the State.

Petitioner has prayed for the following relief:-

“(i) For releasing of the Parchoon Goods i.e. Agriculture



Goods, Hoisery Goods, Shawls, Blankets etc worth Rs. 56,65,110/- which have been illegally seized by the police officials of Rajepur Police Station, District East Champaran because the goods were loaded on the truck/container bearing Registration No.UP 21 CN-2190 carrying the illegal liquor and unloading the same liquor in Tetariya Kothi Village.

(ii) Further for a direction upon the respondents to release the goods in favor of the petitioner who is the Transporter of the said seized goods.

(iii) To pass such other order(s) & direction(s) as your Lordships may deem fit & proper in the facts and circumstances of the case.”

On the basis of secret information, a raid was conducted by the Bihar Prohibition Unit, Patna and during raid one container was found unloading prohibited liquor in an open field and as the police reached the place, the miscreants who were indulged in unloading the illicit liquor fled away, however, one miscreants was caught after chase and on search of vehicle (1) H.L. Shawl – 28 Bag, (2) Curtains – 1 Bag, (3) Agriculture Goods – 12 Bag, (4) Knitted Cloth -1 bag, (5) Cloths-7 bag, (6) Cycle Parts -15 Bag, (7) Hosiery Goods -56 Bag, (8) Hosiery Good In -15 Bags, (9) Jackets – 1 Bag, (10) Tyre -16 Piece, (11) Auto Accessories – 8 Bag, (12) Blankets -1 Bag, (13) Hand Tools -42 Carttons, (14) Sports Goods -2 Bag, (15) O.E. Parts -24 Carttons, (16) Karahi – 30 Piece and (17) Suit Cloth-1 Bag which belongs to the petitioner’s company of worth Rs.56,65,110/- was seized along with 1629 litre illicit liquor, for which FIR was lodged giving rise to Rajepur PS Case No. 172



of 2022 dated 28.09.2022 registered under sections 272, 273, 420, 467, 468/120B of IPC and Sections 30(a), 32, 36 and 41 of the Bihar Prohibition & Excise Act, 2018. It is further stated that on 21.09.2022 petitioner company booked the goods to deliver the same to the different places and in support E-way Bill and bill of the Company of the goods has been enclosed as Annexure-3 series.

It is submitted that the seized goods in question are not liable for confiscation under Section 56 of the Act, as such bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable in case of seizure of Parchoon items and as such Special Court (Excise) where the case instituted under the Excise Act is pending has jurisdiction to pass an order for release of the seized goods.

The writ petition is disposed of with liberty to the petitioner to file an application under Section 451 of the Cr.P.C. for release of goods seized under Excise Act and upon such petition being filed by the petitioner, the Special Court Excise is directed to release the goods which are perishable in nature on furnishing of two sureties (one local) to the extent of the value of goods sought to be released. The seized goods are directed to be released within 7 days from the date of furnishing of said



sureties with usual terms and conditions and undertaking as imposed for release of goods/articles by the Special Court (Excise), after due identification and presentation of ownership documents of the goods.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	24.12.2022
Transmission Date	

