

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.699 of 2023

Prakash Kumar S/o Shyam Sundar Prasad, Resident of Village/Mohalla - Shobha Sadan, Mirchaibari, Katihar, P.S.- Sahayak (Katihar), Distt. - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Bihar, Patna.
2. The Divisional Commissioner, Department of Excise, Purnea-Division, Purnea.
3. The Collector-cum-Distt. Magistrate, Katihar.
4. The Superintendent of Police, Katihar.
5. The Deputy Superintendent of Police, Katihar.
6. The Office-in-charge-cum-S.H.O. of Katihar (Muffasil), Police - Station, Distt. - Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pawan Kumar Singh, Advocate

For the Respondent/s : Mr. Vikash Kumar, SC 11

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 02-02-2023 Heard learned counsel for the petitioner and learned
counsel for the respondents.

This writ application has been filed for release of
Scorpio bearing registration no. BR11PB0994 Chassis No.



MA1TA 2 TDKJ 2C28419) which has been seized in connection with Katihar (Muffassil) P.S Case no. 160 of 2022 dated 08.09.2022 registered for the offence punishable under Sections 279, 337, 338 and 427 of the Indian Penal Code and Section 37(C) of the Bihar Prohibition and Excise Act, 2016.

FIR was instituted against the driver of the vehicle bearing Registration No. BR11PB0994, who was found in a drunken condition while driving the vehicle giving rise to Katihar (Muffassil) P.S Case no. 160 of 2022.

Petitioner claims to be owner of the vehicle and since there is no recovery of any illicit liquor and allegation is against the driver of driving Scorpio in a drunken condition as such, Scorpio is not liable for confiscation and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable, as such concerned Special Court (Excise) can exercise jurisdiction under Section 451 of Cr.P.C for release of the vehicle during pendency of criminal trial.

The writ petition is disposed of with liberty to petitioner to file a petition under Section 451 of Cr.P.C for release of vehicle before the concerned Special Court (Excise), where the trial of case arising out of Katihar (Muffassil) P.S Case no. 160 of 2022 is pending and the Special Court is



directed to dispose of such petition within 30 days from the date
of filing.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Prakash/Sujit

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