

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15761 of 2022

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Ajay Rai @ Ajay Narayan Rai son of Sri Janeshwar Rai, Resident of
Garikhana, P.S. Khagaul, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna.
2. The District Magistrate, Patna, District-Patna.
3. The Superintendent of Police, Patna West, District-Patna.
4. The Station House Officer (SHO), Police Station Danapur, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunit Kumar Srivastava, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-04-2023

Though the writ petition is one filed under Article 226 of the Constitution of India against the order dated 17.08.2022 passed by the Special Judge Excise at Danapur, Patna, the grievance of the petitioner seems to be with respect to the seizure of two Vivo mobile phones from him in pursuance to the excise case registered as Danapur P.S Case No. 255 of 2021.

The learned Spl. Judge Excise has noted the submission of the Special Public Prosecutor before it that in the light of Section 57(B) of Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'Act') there is no jurisdiction conferred



on the court to release any articles under the Act.

The learned State counsel submits based on Section 56 of the Act that any premises, any animal, vehicle, vessel or conveyance, any liquor or intoxicant and any other item having bearing with the case can be confiscated as per the Act.

In the present case, however, there is no confiscation initiated of the mobile phones. This is also evident from the fact that mobile phones have been surrendered before the special court where the case is now pending.

In such circumstances, we set-aside the order dated 17.08.2022 (Annexure-5) and direct the Spl. Judge Excise, Danapur, Patna, to release the mobile phones on such conditions as may be found fit and proper under the facts and circumstances of the case.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

shashank/sumit-

AFR/NAFR	NAFR
CAV DATE	NA
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