

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.458 of 2023

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Ritesh Kumar S/o Baiju Prasad Yadav, R/o Beldarichak, P.S.- Dhanarua,
District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Excise Department.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Patna.
4. The Superintendent of Police, Patna.
5. The Officer In Charge of Paliganj Police Station, District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Murari Mishra, 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 ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 02-02-2023 Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

“I. for direction to the respondent concerned to
release the vehicle (Tractor with trailer) of the
petitioner bearing registration No. BRO1 GG-
6198 and Trailer No. BR01-GF-4931, in favour
of the petitioner which has been seized in



connection with Paliganj P.S. Case No. 188 of 2022 lodged on 16.5.2022 for the offences under Section 279/ 427 of the I.P.C. and Section 37 (b) (C) of the Bihar Prohibition and Excise Act 2018.

II. For any other relief/reliefs for which the petitioner is found entitled in the fact and circumstances of the case.”

Allegation against driver of the aforesaid tractor is of driving the vehicle in a drunken condition. There is no allegation of recovery of any illicit liquor from the seized vehicle.

As there is no allegation of recovery of any illicit liquor from the seized vehicle, same is not liable for confiscation under section 56 of the Bihar Prohibition & Excise Act, 2016 as such, bar of jurisdiction in confiscation under section 60 of the Excise Act is not applicable and the concerned Special Court (Excise) where the criminal case is pending has jurisdiction to pass order for release of seized vehicle.

Writ petition is disposed of with liberty to petitioner who is owner of the seized vehicle to file an application under Section 451 of Cr.P.C for release of his seized vehicle in the concerned Special Court (Excise) who shall dispose of such petition within 30 days from the date of its



filing.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Spd/-Sujit

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