

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9093 of 2024

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Akash (Assistant Manager retail Excellence employee code 34708) Son of
Ajit Prasad Gupta, Resident of Mohalla- Dharhara Kothi Naya Tola, P.S.-
Kadamkuan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Patna.
4. The District Magistrate-cum-Collector, Patna.
5. The Dy. Superintendent of Police, Patna.
6. Manoj Kumar Ray, Inspector Excise, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kumari Anupam
For the Respondent/s	:	Mr.Government Pleader (25)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 02-07-2024

In the instant petition, petitioner has prayed
for the following relief(s):-

*(i) To issue an appropriate writ
order orders, direction or directions
including a writ in the nature of the
mandamus commanding the
respondents to release the only seized
Article which was seized in
connection with Patna Excise PS
Case No. 1608/23 u/s 30(a) 56(b)
32(3) of Bihar Prohibition and Excise*



Act, and seized article belongs to the petitioner and has been seized without proper reason.

(ii) To issue an appropriate writ/ order/ direction directing the respondents to release the goods articles (hereinafter) in favour of the petitioner as the petitioner legal representative of the seized goods (article0

B) To any other relief/s to which the petitioner is found entitled to.

2. Petitioner's goods were carrying from one destination to another destination in the truck bearing Reg. No. HR55AN5475. Petitioner is owner of the goods/materials other than liquor which were seized along with liquor and truck by the jurisdiction police. Therefore, he is entitled to release of such of those goods other than the liquor or not.

3. The present writ petition is not maintainable for the reasons that this Court has been assigned roaster subject of Excise matters only. C.W.J.C. other than Excise material is not entertainable before this Court under Article 226 of the Constitution. Writ petition (general miscellaneous) is also not maintainable for the reasons that if any materials other than liquor are seized by



the police authorities, in that event, petitioner has statutory remedy of filing petition before jurisdictional trial Court under Section 451 of Cr.P.C.

4. Recently, Apex Court in the case of ***Bipin Sahani and Another vs Cental Bureau of Investigation*** reported in ***2024 2 (PLJR) 278 (SC)*** held that if aggrieved person has statutory remedy in that event, he cannot invoke general provisions like Section 151 of C.P.C. or Section 482 of Cr.P.C. The Hon'ble Supreme Court has taken note of earlier decision of the Hon'ble Supreme Court to the extent that if aggrieved party has statutory remedy, in that event, general provisions like Section 151 of C.P.C. or Section 482 of Cr.P.C. are not available. Similarly, Article 226 of the Constitution cannot be invoked for the purpose of redressing the grievance of the petitioner in respect of release of certain goods other than liquor. Any goods were seized by the police authority, in that event, for the purpose of release of those goods remedy is under Section 451 of Cr.P.C. Petitioner cannot invoke short circuit mode through filing writ petition, when statutory remedy is available.

5. In the light of these facts and



circumstances, the present petition do not survive for consideration on maintainability. Accordingly, the present petition stands disposed, reserving liberty to the petitioner to invoke appropriate remedy before appropriate forum.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

alok/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.07.2024.
Transmission Date	N/A

