

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5368 of 2026

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Deepak Kumar Son of Brijanand Sah, Resident of Village- Dharahara, P.S.-
Krishnabrahm, District- Buxar.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Bihar, Patna.
2. The District Magistrate, Buxar
3. The Superintendent of Police, Buxar
4. The S.H.O. Krishnabrah Police Station, Buxar
5. The Investigating Officer of Krishnabrahm P.S. Case no. 127/25, district -
Buxar.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Ravi Shankar Pathak, Advocate
For the Respondent/s : Mr. Venkatesh Kirti, JC to GA-2

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE KUMAR MANISH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 07-07-2026 Heard learned counsel for the petitioner and the State.

2. Petitioner in this case is seeking the following
reliefs:-

"(i) For quashing of order dated 05.02.2026
passed by Special Exclusive Excise Court no.
2 at Buxar whereby and whereunder learned
Special Exclusive Excise Court no. 2 at Buxar
has rejected the application of petitioner filed
for release of Mobile and cash of Rs. 8,360/-
which is illegally seized by police.

(ii) For direction to respondent authorities to
release the Vivo Mobile Phone No.
8252684451 (IMEI No. 869540076436653,



869540076436646) and cash of Rs. 8,360/- (Eight Thousand Three Hundred Sixty only) which seized by the police in Krishnabrah P.S. Case No. 127 of 2025.

(iii) For any other relief/reliefs for which petitioner shall be found entitled under the fact and circumstances of the case under principle of equitable justice.

3. Learned counsel for the petitioner submits that from the shop 540 ml. of liquor is said to have been recovered. The I.O. however, seized his mobile phone and Rs. 8,360/- in cash. For release of the mobile phone and the cash he had approached the learned trial court. It is submitted that the learned trial court has, however, rejected the prayer of the petitioner taking a view that the court has no jurisdiction to entertain an application for release of the vehicle liable to be confiscated under Section 60 of the Bihar Prohibition and Excise Act, 2016 (as amended up-to-date) (hereinafter referred to as 'the Act of 2016'). It is submitted that Section 60 of the Act of 2016 has no application in this case. The mobile phone and cash would have been released particularly when the I.O. had submitted his report clearly saying that he did not require the mobile phone and cash in course of investigation.

4. A counter affidavit has been filed on behalf of the State. In paragraph '11' of the counter affidavit, it is reiterated



that the Investigating Officer has already reported before the learned Special Judge that the cash and mobile phone are no more required for the purpose of investigation.

5. We have given our anxious consideration to Section 60 of the Bihar Prohibition and Excise Act, 2016 which reads as under:-

"60. Bar of jurisdiction in confiscation.— Whenever any liquor, material, still, utensil, implements or apparatus or any receptacle, package, any animal cart, vessel, or other conveyance used in committing any offence, is seized or detained under this Act, no court shall have, notwithstanding anything to the contrary contained in any other law for the time being in force, jurisdiction to make any order with regard to such property."

6. A bare perusal of Section 60 of the Act of 2016 would show that the jurisdiction of the learned court has been taken away limited to the seizures or detention of these liquor, materials and other things mentioned in Section 60. This Court is of the opinion that when the I.O. of the case had already submitted a report that the mobile phone and cash are not required for purpose of investigation of the case, the bar under Section 60 of the Act of 2016 would not operate. The law is meant to facilitate justice and not to create hardships.

7. The impugned order is hereby set aside. The I.O. is directed to release the mobile phone and cash to the petitioner.



The learned Exclusive Special Judge Excise, Buxar shall issue an order of release in favour of the petitioner on showing the document of ownership of the mobile phone.

8. This writ application is allowed.

(Rajeev Ranjan Prasad, J)

(Kumar Manish, J)

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