

(2021) 07 PAT CK 0102

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 12899 Of 2021

Avon Rims Private Limited

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: July 29, 2021

Acts Referred:

- Bihar Prohibition and Excise Act, 2016 - Section 30, 30(a), 38, 56, 60
- Code Of Criminal Procedure, 1973 - Section 451
- Indian Penal Code, 1860 - Section 188, 420

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J

Bench: Division Bench

Advocate: Shashank Chandra, Rohan Priyam Sahay, Ankita Raj Sahay, Vikash Kumar

Final Decision: Disposed Of

Judgement

Heard learned counsel for the parties.

Petitioner has prayed for following relief(s):-

“That this is an application praying for issuance of a writ in the nature of a writ of Mandamus, or any other appropriate writ(s), order(s) direction(s)

commanding the respondents to forthwith release the 80 (Eighty) bundles of Cycle Rims of the petitioner seized in connection with Manjhi P.S. Case

No. 111 of 2018 dated 22.05.2018 registered under Sections 188, 420 IPC and Section 30, 30(a), 38 Bihar Prohibition and Excise Act, 2016 in favour

of the petitioner or for issuance of any other appropriate writ(s), order(s) direction(s) for which petitioner may be deemed to be entitled under the

facts and circumstances of the case.”

As recovered and seized 80 bundles of Cycle Rims is not liable for confiscation under section 56 of the Excise Act, as such, bar of jurisdiction in confiscation under section 60 of the Excise is not applicable and the Special Court (Excise) has jurisdiction to pass order for release of Cycle Rims during pendency of trial.

Petitioner would be at liberty to file a petition before the special court excise under section 451 of Cr.P.C. and if any such petition is filed for release of Cycle Rims, the special court excise shall dispose of such petition within 30 days from the date of its filing.

Petition stands disposed of with the aforesaid observations/directions.