

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16762 of 2016

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1. Sanjay Kumar Singh son of Munsu Singh resident of Village- Shankarpur, P.O.-
Dighwa Dubali, P.S.- Baikunthpur, District- Gopalganj (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise & Prohibition Department, Government of Bihar, Patna.
2. Principal Secretary, Registration, Excise & Prohibition Department, Government of Bihar, Patna.
3. District Magistrate-cum-Collector, Gopalganj, District- Gopalganj (Bihar).
4. Superintendent of Excise, Gopalganj, District- Gopalganj (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raju Giri

For the Respondent/s : Mr. Anshuman Singh, A.C. to PAAG1

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 05-10-2016

Heard learned counsel for the parties.

2. For the alleged violation of the provisions of the Bihar Excise Act, 1915 committed on 27.05.2016 the private vehicle of the petitioner i.e. Wagon R Car having registration No. BR-28K- 0418 from which allegedly two bottles of India made foreign liquor was recovered from the boot of the vehicle, was seized, criminal case was lodged and subsequently upon notice the vehicle in question has been ordered to be confiscated vide order dated 02.08.2016 by the Collector, Gopalganj in Confiscation Case No. 07 of 2016 and it is now to be sold by public auction.

3. Learned counsel for the petitioner submits that ultimately the order of sale is dependent upon the outcome of the criminal case, for if the

petitioner is not convicted, the order of confiscation will stand vitiated. Thus, ultimately all would depend upon the criminal prosecution. Thus, selling the private vehicle at this stage would be too harsh a punishment.

4. Having considered the matter, in our view, it would be in the fitness of things to release the vehicle in favour of its registered owner subject to the result of the criminal proceedings being Barauli P.S. Case No. 106 of 2016 pending in the court of the learned Chief Judicial Magistrate, Gopalganj. The Collector, Gopalganj would release the vehicle in question confiscated in Confiscation Case No. 07 of 2016 to the petitioner on the petitioner furnishing a bond of Rs.50,000/- (Rupees fifty thousand) with two sureties of the like amount each within two weeks from the date of receipt/production of a copy of this order before him.

5. The petitioner reserves his right to challenge the validity of the enactment or statute in an appropriate proceeding, if the petitioner is so advised.

6. This writ application is, accordingly, disposed of.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

Amin/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	