

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1977 of 2018

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Nirpat Prasad, Son of Sri Jhallu Mahto, Resident of Village and Post- Jhurijhuri,
P.S. Barkatha, District- Hazaribagh (Jharkhand).

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The District Magistrate, Gaya, Bihar.
3. The Senior Superintendent of Police, Gaya, Bihar.
4. The Officer-Incharge, Police Station, Barachatti, District-Gaya Bihar.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Arvind Kumar Singh, Advocate.

For the Respondent/s : Mr. Vivek Prasad, GP 7.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-03-2018

Seeking release of the vehicle in question bearing registration no. JH02 AK-2460 (Bolero Maxi Truck BS3) seized in connection with Barachatti P.S. Case No. 461/16 and initiation of proceedings for its confiscation in Confiscation Case No. 70/17 by the District Magistrate, Gaya, this Writ Petition has been filed seeking release of the vehicle.

In a special drive conducted for checking of vehicles at the Check Post (Dobhi), Suryamandal, the vehicle in question was seized and from the vehicle 36 Jerkins, containing 40 liters spirit in each Jerkin totaling 1440 liters spirit, were recovered and the records



indicate that after initiation of the proceedings on 18.11.2016, the confiscation proceedings is still pending.

The petitioner, even though prays for quashing of the confiscation proceedings on the ground that it is the driver of the vehicle who had misused the trust of the petitioner in committing the offence in question, we find that in various cases involving huge quantity of liquor being transported the vehicles have been permitted to be released and strict conditions imposed for release of the vehicles. In this case also we find that the confiscation proceeding which is pending since its initiation after 18.11.2016 and till date it has not been finalized.

Taking note of the totality of the circumstances, we direct that the vehicle in question shall be released to the petitioner on his furnishing Bank Guarantee to the satisfaction of the District Magistrate, Gaya along with two local sureties also to the satisfaction of the District Magistrate, subject to the conditions that he shall produce the vehicle as and when directed by the District Magistrate and shall give an undertaking in the form of an affidavit of himself and one surety to the effect that till the confiscation proceedings are not finally concluded, the vehicle in question shall not be alienated or dealt with in a manner which would be prejudicial to the State Government and the vehicle shall be kept in a proper condition and



produced before the District Magistrate on every occasion as and when directed.

With the aforesaid, the Writ Petition stands disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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