

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2719 of 2017

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Sanjay Pathak S/o Triveni Pathak, R/o Village- Adarsh Nagar, P.S.- Buxar
(T), District- Buxar.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Collector cum District Magistrate, Buxar.
3. The Superintendent of Police, Buxar.
4. The S.H.O. , Buxar Town P.S., District- Buxar.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rahul Nath

For the Respondent/s : Mr. Anil Kumar Sinha (Ga1)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2. 08-01-2018

Heard learned counsel for the petitioner and
learned counsel representing the State.

Petitioner has prayed for release of the vehicle
Tempo (Auto Rickshaw) bearing registration no. BR44P-
4091 in favour of the petitioner in connection with Buxar
(T) P.S. Case No. 536/2017 for the offences under Sections
272, 273, 34 of the Indian Penal Code and 30(a), 41(i) of
Bihar Prohibition and Excise Act, 2016

Learned counsel for the petitioner relies upon
a Division Bench order of this Court in L.P.A. No. 1647 of
2015 and order dated 29.08.2017 passed in Cr.W.J.C. No.



1289 of 2017 by a co-ordinate Bench of this Court and submits that the petitioner is ready and willing to abide by the terms and conditions which may be imposed by this Court. The vehicle in question was allegedly carrying 353 tetra pack of 180 ml. (63.540 lt.) of English wine.

Let the vehicle if belongs to the petitioner be released provisionally on production of proof of ownership and registration of the vehicle in his favour subject to the following conditions:-

(i) Petitioner shall furnish a surety bond of Rs. 1,90,000/- (One Lakh Ninety Thousand) in form of Bank guarantee or the original title deed of an immovable property lying within the jurisdiction of the court or any other security of like nature with two sureties of the like amount to the satisfaction of the learned Additional District & Sessions Judge – II cum Special Judge (Excise), Buxar or the District Magistrate, Buxar as the case may be.

(ii) Petitioner shall furnish an undertaking that he would not alienate or encumber the vehicle



or deal with them adverse to the interest of the State and shall produce the vehicle before the court below and/or the Collector-cum-District Magistrate, Buxar, as and when directed.

(iii) A photograph of the vehicle shall be taken and panchnama be also prepared and kept on record in accordance with law.

It shall be subject to result of the decision in LPA No.1647 of 2015 where a question as to whether the Collector can pass an order of confiscation is pending consideration.

This application is, accordingly, disposed off.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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