

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.391 of 2018

Arising Out of PS.Case No. - 552 Year- 2017 Thana - Town District- BEGUSARAI

=====

Md. Kamal @ Kamal, son of Habib, R/o Ratanpur, P.S. Nagar, District Begusarai
..... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Excise, Patna, Bihar,
3. The Collector, Begusarai,
4. The Superintendent of Police, Begusarai,
5. The Officer-in-Charge of Town P.S. Begusarai.

..... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Raj Kumar Sinha, Advocate.
For the Respondent/s : Mr. (A.P.P.)

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 18-05-2018

It appears that on 08.05.2018 while typing the order the next date of listing of the case was wrongly mentioned as '16th December, 2018', it should be 16th May, 2018'.

On perusal of the statements made in the Counter Affidavit it appears that according to the respondents they have seized the vehicle Bolero bearing registration no. BR9C/4709 in connection with Nagar P.S. Case No. 552/2017 for commission of an offence under Sections 279, 337, 338 and 37(B) of the Bihar Prohibition and Excise Act, 2016.

It appears from the narration of facts and the materials available on the record that no illicit liquor has been recovered from



the vehicle in question. The allegation is that the driver of the vehicle was in intoxicated condition and had committed an accident.

Since the vehicle in question has been seized under the provisions of Bihar Prohibition and Excise Act, this Court would direct provisional release of the vehicle in question on the petitioner furnishing documents of ownership and proof of registration of the vehicle in his favour with two sureties, valued at Rs. 4,00,000/- (Four lacs), to the satisfaction of the District Magistrate-cum-Collector, Begusarai within a period of one week from today, subject to the following conditions:-

(i) The petitioner shall give an undertaking that he will not deal with the vehicle in question and shall not alienate or encumber the same creating any kind of adverse interest against the interest of the State; he will not use the vehicle for any illegal purpose and as and when required, he will produce the vehicle in question before the competent court/authority.

(ii) At the time of release, the concerned authority/court shall get prepared a photograph duly certified in presence of the petitioner and Panchnama of the vehicle in question shall also be prepared and the same be kept on record which may be used as a secondary evidence.

(iii) The Petitioner undertakes not to challenge the photograph and Panchnama so prepared in his presence at the time of release of vehicle in question for use in course of trial or the confiscation proceeding, as the case may be.

Before initiation of any confiscation proceeding the



Collector shall be obliged to consider the preliminary objection as to whether in terms of Section 56 of the Bihar Prohibition and Excise Act, 2016 a vehicle not carrying any illicit liquor may be subject to confiscation proceedings. I have indicated in my previous orders and this Court is aware that the Division Bench of this Court while hearing similar matters has pointed out this to the District Magistrate in several cases.

With the aforesaid observations and directions, the Writ Application stands disposed of.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.05.2018
Transmission Date	19.05.2018

