

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1656 of 2018

In
Civil Writ Jurisdiction Case No.5024 of 2018

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Md. Mumtaj @ Mumtaj Ali, Son of Late Mahiuddin @ Md.Mhimaddin,
Resident of Village Chalthol, Islamamorar, Uttar Dinajpur, West Bengal.

... .. Petitioner/s

Versus

1. The State Of Bihar through Secretary, Department of Excise, New Secretariat, Patna, Bihar
2. The Collector, Purnea
3. The S. P. Purnea
4. The A.S.I. Dagarua PS District Purnea

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand
For the Respondent/s : Mr. Pushkar Narain Shahi - AAG 6

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 20-06-2018 Seeking modification of an order passed by this Court on 27.03.2018 in CWJC No. 5024 of 2018 this application has been filed.

Due to seizure of the vehicle in question, a Mahindra Bolero Plus Pick Up Van bearing Registration No. WB 60 L/7909, in connection with Dagarua PS Case No. 221/2017 for violation of the provisions of Excise Act the writ petition was filed seeking release of the vehicle. The writ petition was allowed taking into note of the quantity of the whiskey that was seized from the vehicle on the condition that the vehicle can be



released on furnishing of a Bank Guarantee to the satisfaction of the District Magistrate-cum-Collector, Purnea.

Now, in this appeal various averments have been made indicating that the petitioner is a person living below the poverty line it is difficult for the petitioner to furnish Bank Guarantee and as the petitioner is suffering hardship due to non-release of the vehicle prayer made is that the condition for furnishing of Bank Guarantee be relaxed and the vehicle be released on furnishing adequate surety or personal bond.

From the vehicle of the petitioner 70 bottles of Royal Stage Whiskey were seized and considering the fact that the seizure of the liquor was beyond the commercial valuation determined by this Court, i.e. 25 liters, the order was passed. Consistently in all such cases vehicles are being released on furnishing of Bank Guarantee. More than one hundred of cases have been disposed of by this Court where the quantity of liquor seized is more than 25 liters the order passed by this Court had been for furnishing Bank Guarantee. It is only in one or two cases in special circumstances looking into the hardship that deviation has been made. In this case, the petitioner even though he indicates to be a person living below the poverty line but is the owner of the vehicle in question and is carrying out



commercial activities by use of vehicle. Therefore, the learned counsel for the State argues that no deviation be made in this case as there would be inconsistency in the order passed by this Court.

We have considered the issue in question and we have gone through the documents and materials available on record. Taking note of the totality of the circumstances and the fact that the petitioner seems to be a person who is solely dependent upon the vehicle for earning his livelihood and it may be difficult for him to furnish the entire Bank Guarantee for more than four lakhs rupees interest of justice requires that some relaxation should be granted to the petitioner in the facts and circumstances of the case that has come on record.

Accordingly, we modify the order dated 27.03.2018 passed in CWJC NO. 5024 of 2018 to the effect that the vehicle in question Mahendra Bolero Plus Pick Up Van bearing Registration No. WB 60L/7909 shall be released to the petitioner on his furnishing Bank Guarantee to the extent of 25% of the valuation of the vehicle as may be determined by the District Magistrate and for the remaining amount two sureties to the satisfaction of the District Magistrate, Purnea. All other conditions stipulated in the order dated 27.03.2018 shall



continue to remain in force.

With the aforesaid partial modification in the order dated 27.03.2018 in CWJC No. 5024 of 2018 this application stands disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

mrl./-

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