

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2554 of 2017

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1. Sudha Kumari W/o Sri Ranjan Singh, @ Rajan Singh, R/o Mohalla-Kanhauli, Vishundutt, P.O.- Bela, Ashram, P.S.- Mithanpura, District-Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The District Magistrate Cum Collector, Muzaffarpur.
3. The Senior Superintendent of Police, Muzaffarpur.
4. The S.H.O., Kanti P.S., District- Muzaffarpur.
5. The Investigation Officer, Kanti P.S. Case No. 403/17, P.S.- Kanti, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh
For the Respondent/s : Mr. Vivek Prasad

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 05-01-2018

The present application has been filed for release of the vehicle Scorpio bearing Registration No. BRO6PD-2933 in favour of the petitioner which has been seized in connection with Kanti P.S. Case No. 403/2017 for the offense under Section 12B of the Indian Penal Code and 30(a)/38/41 of the Bihar Prohibition and Excise Act, 2016. It appears that huge quantity of illicit liquor were allegedly seized from the vehicle in question.

Learned counsel for the petitioner submits that till date no confiscation proceeding has been initiated against the vehicle in question. He further submits that



though the vehicle has been seized from the possession of the driver engaged by this petitioner but in fact the ownership of the vehicle has not been standing in the name of this petitioner because after purchase of the vehicle from one Suvercha Priya the steps towards getting the name of the petitioner transferred as owner has not been taken so far.

He however submits that the registered owner of the vehicle would be ready and willing to produce the documents of ownership with her affidavit in the court of learned Special Judge, Excise Act, Muzaffarpur, where the case in question is pending.

Considering the facts and circumstances of the case and the judgment of the Hon'ble Supreme Court in the case of **Sunderbhai Ambalal Desai vs. State of Gujarat** reported in **2002 (10) SCC 283**, and the other orders passed by this court in the matter of release of vehicles seized in connection with the cases under the Prohibition Act, I would direct the learned Special Judge, Excise Act, Muzaffarpur to release provisionally the vehicle in favour of the registered owner if she produces the documents of ownership together with her own affidavit stating that the



vehicle in question had been earlier sold in favour of the petitioner. At the time of release, the petitioner or the registered owner shall be obliged to submit a surety bond of Rs. 10,00,000/- (Ten lakhs) in form of either a Bank guarantee or the original document of title of an immovable property lying within the jurisdiction of the court below or a security of like nature to the satisfaction of the learned Special Judge, Excise Act, Muzaffarpur, thereupon the learned Special Judge shall get prepared a photograph of the vehicle with a panchnama in accordance with law.

The vehicle shall be released in favour of the registered owner and/or on her personal affidavit in favour of the petitioner, to the petitioner, subject to the condition that neither the registered owner nor the petitioner shall deal with the vehicle in question in favour of any other person and the vehicle shall neither be alienated or encumbered by creating an adverse interest against the interest of the State, they will give undertaking that the vehicle shall not be used for any illegal purpose and as and when required the vehicle shall be produced by the registered owner/petitioner before the competent authority



or court as the case may be.

This application is, accordingly, disposed off.

(Rajeev Ranjan Prasad, J.)

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