

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15063 of 2018

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Brajesh Kumar, Son of Shyam Sundar Yadav, resident of Village-
Kamdarganj, P.S.- Silao, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, P.S. Silao, District- Nalanda.
2. The Superintendent of Police, Nalanda at Biharsharif.
3. The Officer Incharge, P.S. Nalanda, District- Nalanda.
4. The Principal Secretary, Excise Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satya Ranjan Sinha, 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 ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 03-08-2018

Petitioner has filed this writ petition challenging the
confiscation proceedings initiated against him or proposed to be
initiated against him, so also seizure of his vehicle Jeep bearing
Registration No. BR-27C-8050, seized in connection with
Nalanda P.S. Case No. 74 of 2018.

It is the case of the petitioner that the only
allegation against the petitioner and the case registered under
the Bihar Excise and Prohibition Act, 2016 is with regard to the
petitioner driving the vehicle in a drunken condition. It is
emphasized that under Section 56 of the Bihar Excise and
Prohibition Act, 2016, when the vehicle in question is not
being used for transportation or carrying of any liquor, seizure
or confiscation of the vehicle is not permissible. Considering



similar arguments, we had held in C.W.J.C.No.13162 of 2018 yesterday and earlier also in the case of Diwakar Kumar Singh Vs. The State of Bihar & Ors. (C.W.J.C. No.5049 of 2018) that under Section 56 of the Act when the only allegation against a person is that he is found to be driving a vehicle or plying it on a public place in a drunken condition, the provisions of Section 56 is not applicable and confiscation and seizure of such a vehicle is not permissible under the Bihar Excise and Prohibition Act, 2016.

Accordingly, in view of the above, we allow this application, quash the confiscation proceedings, permit the respondents to proceed to prosecute the applicant, namely Brajesh Kumar, for being or driving in a drunken condition.

Accordingly, confiscation of the vehicle shall stand quashed and vehicle released to the petitioner, if not required in any other case.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/Uma/-

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