

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2110 of 2018

Arising Out of PS. Case No.-113 Year-2018 Thana- BAGHA District- West Champaran

Kush Chakrawarti @ Kush Chakravarti S/o Brij Lal Chakrawarti, R/o Mohalla- Purani Bazar, Ward no. 3, Near Hospital Campus, Narkatiaganj, P.S.- Shikarpur, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Registration, Exise And Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate Cum Confiscation Officer, West Champarn at Bettiah.
3. The Station House Officer, Bagha Pathkauli Police Staion.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-10-2018 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner is seeking provisional release of vehicle Bolero bearing Registration No. BR-22P-5610 which has been seized in connection with Pathkauli P. S. Case No. 113 of 2018 registered under Sections 272, 273 of the Indian Penal Code and Section 30 (A) of the Bihar Prohibition & Excise Act, 2016.

Learned counsel for the petitioner submits that the vehicle in question was seized when the petitioner was found in drunken condition. Nothing has been recovered from the vehicle in question and therefore, the very seizure is illegal. It is also submitted that confiscation proceeding has been initiated in respect of the vehicle.



Learned counsel for the State is present.

Considering the facts and circumstances of the case and also the judgment of the Hon'ble Division Bench in the case of **Diwakar Kumar Singh Vs. The State of Bihar through the Principal Secretary, Excise Department & Ors. reported in 2018 (3) PLJR 403**, the District Magistrate, West Champaran at Bettiah is directed to release the vehicle in question forthwith in favour of the petitioner within a week after submission of the document showing the ownership of the vehicle and registration certificate in the name of petitioner.

Since nothing has been recovered from the vehicle, there is no question of submission of any surety bond in view of the judgment of the Hon'ble Division Bench of this Court.

It is made clear that before initiation of any confiscation proceeding the District Magistrate shall consider the preliminary issue as to whether in view of Section 56 of the Bihar Prohibition and Excise Act, 2016 a confiscation proceeding may be initiated in respect of a vehicle from which there is no recovery of illicit liquor.

This application stands disposed off, accordingly.

(Rajeev Ranjan Prasad, J)

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