

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15149 of 2018

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Bhagwant Singh, Son of Khajan Singh, Resident of Village- Ranike Tehsil
Amritsar Raniko, District- Amritsar, Punjab.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Begusarai, District- Begusarai.
3. The Superintendent of Police, Begusarai, District- Begusarai.
4. The Superintendent of Excise, Begusarai.
5. The Officer-in-Charge, Begusarai P.S. District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Srivastava
For the Respondent/s : Mr.Vikash Kumar -Sc11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 20-12-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

This application has been preferred seeking a provisional
release of the vehicle (Ten Wheeler Truck) bearing Registration No.
PB-02-BV-9894 seized in connection with Sakamal P .S. Case No.
101 of 2018 dated 22.04.2018.

Learned counsel for the petitioner informs this Court that
confiscation proceeding has not been initiated with respect to the
vehicle in question.

Learned counsel for the State submits that in the present
case huge quantity of illicit liquor has been seized which is a serious



offence in the State of Bihar under the provisions of the Bihar Prohibition and Excise Act, 2016. Learned Counsel submits that considering the huge quantity of illicit liquor recovered from the vehicle in question it would not be just and proper for this Court to exercise its discretion under Article 226 of the Constitution of India to provisionally release the vehicle. Learned counsel further submits that the writ application may, for the present, be disposed of with a direction to the District Magistrate, Begusarai to conclude the confiscation proceeding within a reasonable time.

Having heard the parties and on perusal of records, we find that in the present case the vehicle is registered in the State of Punjab and a huge quantity of illicit liquor said to be about 4000 liters has been recovered from the vehicle in question. Even though we are directing provisional release of the vehicle in some of the cases but while doing so we take into consideration the quantity of the liquor and the nature of the vehicle involved in the alleged offence.

In the present case, we are not persuaded to allow provisional release of the vehicle considering that the vehicle is from outside the State of Bihar and it was allegedly carrying about 4000 liters of illicit liquor. We find that the confiscation proceeding has yet not been initiated, reason is not known as sometimes we find that in cases of even less than one (1) liter of seizure confiscation order is passed very promptly but in cases of huge recovery this is the



position. We are of the view that only because the Excise Act, 2016 does not prescribe maximum time within which a confiscation proceeding is to be concluded, it does not mean that the competent Authority shall be sitting idle for an unreasonable period. Sub-Section (1) of Section 58 of the Excise Act, 2016 imposes a duty upon the officer seizing or detaining the property to submit a report to the District Collector without any reasonable delay (emphasis supplied). Under Sub-Section (2) of Section 58, the District collector, if satisfied that an offence under the Act has been committed, order confiscation but after giving a reasonable opportunity to the person concerned, of being heard. Thus, the legislature's intent is very clear from the language of the scheme of Section 58 of the Excise Act, 2016. It should be a reasonable period within which the whole exercise is to be completed.

The Rule of 'reasonable time' is made applicable in a statute or by a Court of Law when it is found that exercise of powers by authority with delay or at belated stage is likely to result in deprivation of property which rightly and lawfully belonged to the person concerned. Reference in this regard may be made to the judgments of the Hon'ble Supreme Court in the case of **State of Gujarat V. Ptil Raghav Natha and Others** reported in (1969) 2 SCC 187 and in the case of **Ram Chand and Others Vs. Union of Indian & Ors.** reported in (1994) 1 SCC 44.

At this stage we direct the District Magistrate, Begusarai



to find out whether a report in terms of Section 58 (1) of the Excise Act, 2016 has been submitted, if not then why such delay has been caused and conclude the confiscation proceeding and pass an appropriate order after hearing all the parties concerned within a period of 90 days from the date of receipt/production of a copy of this order.

If the confiscation proceeding is not concluded within the aforesaid period, the petitioner will be at liberty to seek his remedy in accordance with law.

This writ application stands disposed of.

(Jyoti Saran, J)

(Rajeev Ranjan Prasad, J)

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