

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1504 of 2019

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Ankit Kumar Upadhayay, aged about 20 years (male), son of Ramashankar Upadhayay, R/O village- Gowlakshni, P.S- Modal Police Station, District- Rohtas, permanent resident of Mahavir Bhawan, Kuraich, Canal Road Sasaram

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Govt of Bihar Patna
2. The Collector Cum District Magistrate, Kaimur at Bhabhua
3. The Superintendent of Excise, Kaimur at Bhabhua
4. The Inspector, Excise Mohania, Kaimur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha, Advocate
For the State : Mr.Rewti Kant Raman, AC to SC-11.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 18-02-2019

Heard Mr. Ashok Kumar Jha, learned counsel for the petitioner and learned counsel for the State.

The petitioner, while questioning the order dated 16.11.2018 passed by the Collector-cum-District Magistrate, Kaimur at Bhabhua passed in Confiscation Case No. 111 of 2018, prays for provisional release of the Honda Civic Car bearing Registration No. DL4CNC -2828, which has been seized in connection with Excise Case No. 950 of 2018.

The pleadings on record would reflect that 64 bottles of IMFL contained in 180 ml. each was recovered from the



vehicle and consequently, three persons were apprehended, namely, Ankit Kumar Upadhayay, Santosh Kumar and Guddu Kumar. It is because the submission made by the learned counsel appearing for the petitioner that the order of confiscation was passed without opportunity of hearing to the petitioner that learned counsel for the State was directed to seek instruction on this limited issue on 28.01.2019. However, when this matter is taken up today, Mr. Rewti Kant Raman, Assisting Counsel to S.C.11 informs that he has not yet received information. Meaning thereby, there is nothing to contest the pleadings of the petitioner that the order of confiscation is passed without opportunity of hearing.

Though the order passed in the confiscation case, records opportunity to the owner of the vehicle to defend the case but having given an accommodation to the respondents to contest the specific averment made by the petitioner in paragraph no. 7 regarding denial of opportunity of hearing with no assistance coming forth, we are persuaded with the argument to quash the order dated 16.11.2018 passed in Confiscation Case No. 111 of 2018, which is accordingly quashed and set aside. The matter is remitted to the Collector-cum-District Magistrate, Kaimur at Bhabhua to consider the matter afresh for disposal in



accordance with law with due opportunity of hearing to the petitioner, who shall appear along with the copy of this order on 26th February, 2019, when the Collector-District Magistrate, Kaimur at Bhabhua shall proceed to dispose of the matter in the manner stipulated hereinabove.

The writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
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