

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17692 of 2018

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Vedpal @ Vedpal Singh S/o Amar Singh R/o H. No. - 536, Kheliyakalyanpur,
Bulandshahar, U.P. At Present R/o Sector-32, Noida, Gautambudhnagar, P.S.
Gautambudhnagar, District-Noida, Uttar Pradesh.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate-Cum-District Collector, Vaishali at Hajipur.
3. The Superintendent of Police, Vaishali at Hajipur.
5. The Station House Officer, P.S. Sarai, Vaishali.
6. The Investigating Officer of Sarai P.S. Case No. 137/2016.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manish Chandra Gandhi

For the Respondent/s : Mr.Anil Kumar Sinha -GA1

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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 : 11-03-2019

Heard Mr. Manish Chandra Gandhi, learned
counsel for the petitioner and Mr. Pawan Kumar, learned AC to
GA 1 for the State.

This writ petition was filed seeking provisional
release of the vehicle of the petitioner bearing Registration No.
UP-13T-9703, which was seized in connection with Sarai P.S.
No. 137 of 2016 for alleged violation of the provisions of the



Bihar Prohibition and Excise Act, 2016 on account of alleged recovery of 1882.80 liters of I.M.F.L.

While the writ petition is pending that the petitioner gathered knowledge that final orders had already been passed in the confiscation case so initiated bearing Cr. Misc. Case No. 5 of 2016-17 by the Collector, Vaishali on 20.06.2017.

While placing the said order on record, Mr. Gandhi submits that the order is *ex parte* and without notice to the petitioner and that is why he had no information about it and that is why the present case was filed for provisional release of the vehicle.

It is taking note of the fact that the order of confiscation was passed almost two years back that the counsel for the State was directed to seek instruction on the auction part and when Mr. Pawan Kumar, A.C. to G.A. 1 informs that the vehicle has not been auctioned.

We have heard learned counsel for the parties and we have perused the record and it would not take long for us to quash the order of confiscation because confirmingly it is simply proceeding on the recommendation of the Superintendent of Police regarding the vehicle being used for transportation of liquor that the District Magistrate, Vaishali



without issuing notice, has confiscated the vehicle of the petitioner. The order apparently fails on the nature of a *quasi judicial* discharge expected of a statutory authority discharging such obligations.

In such view of the matter, we quash the order of confiscation dated 20.06.2017 passed by the Collector, Vaishali in Cr. Misc. Case No. 5 of 2016-17 but allow him to pass fresh orders in accordance with law within 4 weeks of receipt/production of a copy of this order.

In case the confiscation case is not disposed of within the period stipulated above for no fault of the petitioner, then the District Magistrate-cum-Collector, Vaishali shall release the vehicle in question on production of ownership and registration with respect to vehicle in question in his name before the Collector, Vaishali with one surety (Local) along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety and the bank guarantee or the original title deed, as the case may be, shall also furnish the following affidavits/undertakings:

- (i) That the vehicle in question has never been



involved in any offence of similar nature in past and shall not indulge in similar offence in future.

(ii) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.

(iii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when required.

(iv) Prior to release of the vehicle, the Collector, Vaishali would get prepared a Panchanama wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and the same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama in course of trial.

The release shall be allowed within a period of 14 days from the date of production of ownership/registration papers supporting the claim of the petitioner together with one



surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance document and the undertakings as stated above. This release would, however, be subject to the final orders passed in the confiscation proceeding. The title deed papers, if produced, shall remain in safe custody of the confiscating authority subject to final decision in the confiscation proceeding.

With the observations and directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.03.2019
Transmission Date	NA

