

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10509 of 2019

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Md. Qazi Tauqueer @ Raja @ Md. Qazib Tauqueer Alam @ Raja Son of late
Md. Manseer Alam resident of Village Bhadauni rasul Nagar, P.S. Nawada,
District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Bihar Prohibition and Excise Act, Patna.
2. The Excise Commissioner Bihar Prohibition and Excise Department, Bihar, Patna.
3. The Excise Officer , Bihar Prohibition and Excise Department, Nawada.
4. The District Magistrate, Nawada.
5. The Superintendent of Police, Nawada.
6. The Officer Incharge of Nawad Town Police Station, District- Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Verma
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 10-05-2019

The matter has been wrongly put up because
defects have been removed and thus the office note is overruled.

With the consent of the parties, we take up the
matter for consideration on merit.

Petitioner has prayed for provisional release of the
two vehicles bearing No. BR-04-4856 and JH 02D-3614
respectively which has been seized by the police in connection
with Nawada P.S. Case No. 858 of 2018 registered for the



offence under Section 37 (a) of Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that recovery is from the Poultry farm and there is no recovery from the vehicles in question. It is on suspicion that the vehicles are used in transportation of the liquor that they have been seized despite no recovery made from the vehicles. Learned counsel for the State while opposing the prayer on grounds of huge amount of recovery, does admit that the recovery was from the poultry farm. It is submitted that no confiscation proceeding is pending in respect of the vehicle in question.

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 court below 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.

Learned counsel on instructions has submitted that the vehicle is lying in the local police station and some of the parts have been dismantled. If that be so, the petitioner would be entitled to take recourse to such lawful remedy as available to claim damages.

The writ petition is allowed with directions/observations above.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2019
Transmission Date	NA

