

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8497 of 2019

=====

Anand Roadlines H.O. DPT 812A, Prime Tower, F- 79-80, Okhla Industrial Area Phase-I, New Delhi -110020 through its representative Sri Ravinder Singh Arneja, aged about 51 Years (Male) S/O Shri Pritam Singh Arneja, R/O. C2- 855, Block No. C-2, Palm Vihar, Choma 62, Gurgaon, Haryana-122017.

... .. Petitioner

Versus

1. State of Bihar through the Principal Secretary, Department of Excise, Govt. of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Superintendent of Police, Muzaffarpur.
4. The Excise Superintendent, Muzaffarpur.
5. The Excise Inspector ,Excise, Muzaffarpur.
6. The Station House Officer, Motipur Police Station, Muzaffarpur.

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr.Yashraj Bardhan, Adv.
For the Respondent/s : Mr.Vikash Kumar, SC-11.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 14-05-2019

Heard Mr. Yashraj Bardhan, learned counsel appearing for the petitioner and Mr. Vikash Kumar, learned Standing Counsel No. 11 for the State.

The petitioner prays for release of the consignment booked by M/S Schindler India Pvt. Ltd which was entrusted to the petitioner herein for transportation from its Mitrol warehouse at Palwal in the State of Haryana to its Godown/ warehouse at Guwahati vide invoice dated 21.02.2019, copies of which are enclosed at Annexure-1 series but have been intercepted in the



midway by the Excise authorities in the district of Muzaffarpur because the truck through which it was being transported bearing registration no. HR-38S-3761 was also loaded with liquor and police case arising from Motipur P.S. Case No. 98/2019, registered. The consignor as well as the transporter both disown the liquor part loaded on the truck.

While Mr. Yashraj Bardhan, learned counsel appearing for the petitioner, who is the transporter entrusted with the transportation of the goods in question, disowns any culpability on the recovery of liquor, Mr. Vikash Kumar, learned Standing Counsel No. 11 opposing the prayer submits that the goods in question, the release of which is being prayed, is only a cover up for the illegal trade.

Be that as it may, the fact remains that it is for release of elevators/ lift, which was being transported to Guwahati that this writ petition is filed and the reason is because it stands seized in connection with Motipur PS. Case no. 98 of 2019 registered for offences punishable under the Indian Penal Code and the Bihar Prohibition and Excise Act, 2016 that the petitioner is before this Court.

An attempt made by the petitioner before the designated court below has not been fruitful because of jurisdictional issue.



We are constrained to note that even though the goods in question i.e. elevator/lift is neither an item of seizure/confiscation under the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act') nor the designated court below is powerless to exercise jurisdiction for directing release thereof subject to production of documents supporting the claim of valid and lawful transportation of the goods in question to Guwahati, yet the designated court below has abdicated its responsibility of deciding the issue. We are conscious of the stringent provisions present in 'the Act' but then it has to be applied to items which have been made liable for confiscation under section 56 and not on every item being transported and illegally seized. It is about time that the designated court below conferred with powers to deal with matters arising from the Bihar Prohibition and Excise Act, 2016 realise their jurisdiction and the powers vested in them of release in relation to such goods which are not liable for seizure/confiscation under 'the Act' subject to obviously, production of ownership papers as well as documents supporting a valid transportation.

The legal position in this regard is self eloquent from the provisions of 'the Act' and if any item seized is liable for confiscation under section 56 of 'the Act' then perhaps neither the court below nor the Confiscating Authority or the Appellate



Authority, has been vested with jurisdiction to order for release, but in case the item of seizure is not covered under section 56 of 'the Act', then the designated court below and/or the Confiscating Authority, as the case may be, would be failing in their duty to order for release of such goods unconditionally but subject to production of valid documents supporting a lawful transportation.

Let this order be an advise to all the Judicial Officers/ Confiscating Authorities exercising jurisdiction under the Bihar Prohibition and Excise Act, 2016 to apply themselves while considering such matters.

In so far as the present case is concerned, we hereby direct the designated court at Muzaffarpur to forthwith ensure release of the goods in question within a period of 7 days of production of this order together with documents relating to valid transportation of the goods in question.

The writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Anjula/Surendra

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.05.2019
Transmission Date	NA

