

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 13079 of 2019

Manoj Kumar, aged about 30 years, Male, son of Sri Raj Nath Sah, resident of House No. 118, Harijan Basti, Mohalla- Nehru Nagar, P.S.- Patliputra, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna.
2. The Excise Commissioner, Excise Department, Government of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Superintendent of Police, Patna.
5. The S.H.O., Gandhi Maidan P.S., Distt.- Patna.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Akshansh Ankit, Advocate
For the Respondent/s : Mr. Vikash Kumar (SC-11)

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

2. 26-09-2019 Heard Sri Akshansh Ankit, learned counsel for the petitioner and Sri Vikash Kumar, learned Standing Counsel – 11.

The present writ petition was filed on 28th June, 2019 after serving copy of the same in the office of learned Advocate General on 03-05-2019, however; till date, no counter affidavit has been filed. The petitioner, claiming to be registered owner of a 4-wheeler i.e. Maruti Suzuki Swift Dezire, bearing Registration No. BR01BF-9497, Engine No. D13A2518419 and Chassis No. MA3FJEB1S00675212, has invoked writ



jurisdiction of this Court under Article 226 of the Constitution of India, with a prayer to direct the respondents to release his vehicle, which has been seized in connection with Gandhi Maidan P.S. Case No. 162 of 2018, corresponding to Special Case No. 3992 of 2018, registered for offence under Sections 37(a), (b), (c) of Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'Bihar Excise Act').

Learned counsel for the petitioner, by way of referring to F.I.R., submits that in the vehicle, two persons, which include driver, were found in drunken condition. Besides arresting them, the vehicle of the petitioner was also seized and after seizure, which was made on 29-04-2018, his vehicle is lying in open sky. He submits that since the vehicle was neither used for carrying liquor nor any intoxicant was recovered from the vehicle, in view of Section 56(b) of Bihar Excise Act, the vehicle may not be confiscated and since the vehicle is beyond the purview of confiscation, the authority concerned was not having any authority to seize the same.

Sri Vikash Kumar, learned Standing Counsel – 11, even in absence of counter affidavit, has opposed the prayer for release of the vehicle, however; he has not disputed the fact that under Section 56(b) of Bihar Excise Act, a vehicle, which is



used in transporting or carrying liquor or intoxicant is liable to be confiscated. He submits that two occupants were found in drunken condition, whereas, as per F.I.R., there is no recovery from the vehicle. On this very issue, a Division Bench of this Court in CW.J.C. No. 13162 of 2018 has already held that in such case, the vehicle is beyond purview of confiscation.

Accordingly, in view of facts and circumstances, particularly the order of the coordinate Bench of this Court in C.W.J.C. No. 13162 of 2018, the respondents are directed to release the vehicle of the petitioner i.e. Maruti Suzuki Swift Dezire Car, bearing Registration No. BR01BF-9497, Engine No. D13A2518419 and Chassis No. MA3FJEB1S00675212 on production of original document(s) relating to the vehicle to the owner of the vehicle.

The writ petition stands allowed.

(Rakesh Kumar, J.)

(Anjani Kumar Sharan, J.)

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