

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.121 of 2019

Arising Out of PS. Case No.-133 Year-2018 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

=====

Asha Singh Wife of Sanoj Singh &
Bachcha Prasad Singh @ Bachana Prasad Singh Resident of Dumardaga
Booty More, P.S-Sadar, Distt.-Ranchi (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Government of Bihar, Excise Department, Patna
2. District Magistrate-cum-Collector, Gaya
3. Excise Superintendent, Gaya

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar @ S.K., Advocate
For the Respondent/s : Mr.Vikash Kumar, SC-11

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 22-01-2019

Heard learned counsel for the petitioner and
learned counsel for the State.

2. This writ petition has been filed by the
petitioner for release of Indigo car bearing registration no. JH 01
BG-1098, Chasis No. MAT 607331EPB04333, Engine No.
4751DT14BVYP06740, which has been seized in connection
with Excise Case No. 133 of 2018 dated 09.08.2018 registered
under Sections 30(a) and 56(b) of the Bihar Prohibition and
Excise Act, 2016.

3. It is contended by the learned counsel for the
petitioner that the action of the respondents in seizing the



vehicle is bad, illegal and arbitrary. The petitioner is a lady and is the registered owner of the vehicle in question, which was purchased after taking loan and finance from Cholamandalam and Finance Co. Ltd. He contended that recovery of the illicit liquor from the dickky of the vehicle in question would not have been made a ground for seizure of the vehicle.

4. Per Contra, learned counsel appearing for the State submitted that seizure of the vehicle was made in accordance with law as liquor was being carried in the dickky of the vehicle in contravention of the provisions prescribed under Sections 30(a) and 56(b) of the Bihar Prohibition and Excise Act, 2016. He contended that in para-8, the petitioner has stated that no notice regarding initiation of any proceeding of confiscation has been received by the petitioner.

5. In case, the confiscation proceeding has not been initiated, the petitioner ought to have moved first before the court below for custody of the vehicle under Section 451 of the Code of Criminal Procedure.

6. I have heard learned counsel for the parties and carefully perused the record.

7. Since contention of the petitioner is that till date no confiscation proceeding has been initiated and she has



not filed any application for release or custody of the vehicle in question before the court of Special Judge where the matter is pending, I am not inclined to entertain this writ petition, as the petitioner has not availed of the statutory remedy available in law.

8. Accordingly, the writ petition is dismissed with liberty to the petitioner to move first before the court concerned for the relief prayed for in the instant writ petition.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.01.2019
Transmission Date	28.01.2019

