

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Miscellaneous Jurisdiction Case No.3383 of 2019**

**In**

**Civil Writ Jurisdiction Case No.20325 of 2018**

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Pradeep Bhagat Son of Baldev Bhagat, resident of Banjari Naya Tola,  
District- Gopalganj, at present- Bangara, P.O. and P.S. Mashrakh, District-  
Saran.

... .. Petitioner

Versus

1. The State of Bihar.
2. Excise Commissioner, State of Bihar, Patna.
3. Additional Commissioner, Excise, State of Bihar, Patna.
4. Excise Superintendent, Saran at Chapra.
5. Excise Deputy Superintendent, Saran at Chapra.
6. Sub-Inspector, Excise, Saran at Chapra.
7. District Magistrate, Saran at Chapra.
8. Officer-in-charge of Mashrakh Police Station, District- Saran.

... .. Respondents

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**Appearance :**

For the Petitioner : Mr.Ajay Kr Singh No.1, Advocate  
For the Respondent-State: Mr.Vivek Prasad, GP 7

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**and**  
**HONOURABLE MR. JUSTICE PRAKASH CHANDRA**  
**JAISWAL**

ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)**

3      10-12-2019                      This application has been filed by the petitioner for  
  
modification of the order dated 15.04.2019 passed in CWJC No.  
  
20325 of 2018.



By the said order dated 15.04.2019, the prayer of the petitioner for provisional release of Bolero Pick Up Van bearing Registration No. BR 28E-3791, which was seized in connection with Mashrakh P. S. Case No. 126 of 20148 registered *inter alia* for the offences punishable under Sections 30(a), 38 and 41 of the Bihar Prohibition and Excise Act, 2016 (for short 'the Act') was allowed subject to condition that he shall offer one surety along with a bank guarantee or original title deed of immovable property situated within the district to the extent of value of the vehicle as indicated in the insurance document.

The contention of the petitioner is that it is difficult for the petitioner to fulfill the condition imposed by the Court for the purpose of provisional release of the vehicle.

Section 58 of the Act mandates that notwithstanding anything contained in the Act or any other law for the time being in force, where anything liable for confiscation under the Act is seized or detained under the provisions of the Act, the officer seizing and detaining such property shall, without any reasonable delay submit a report to the District Collector who has jurisdiction over the said area and on receipt of the report under sub-section (1), the District Collector if satisfied that an offence under the Act has been committed, may, whether or not



prosecution is instituted for the commission of such an offence and whether or not a case is pending before any court, order confiscation of such property. However, the Collector is required to give a reasonable opportunity to the person concerned, of being heard before passing an order.

Section 60 of the Act provides that whenever any liquor, material, still, utensil, implements or apparatus or any receptacle, package, any animal cart, vessel, or other conveyance used in committing any offence, is seized or detained under this Act, no court shall have, notwithstanding anything to the contrary contained in any other law for the time being in force, jurisdiction to make any order with regard to such property.

Thus aforesaid Section 60 bars jurisdiction of the Court in confiscation proceeding. A conjoint reading of Sections 58 and 60 would make it evident that the moment the District Collector is satisfied that an offence under the Bihar Prohibition and Excise Act has been committed, and anything liable for confiscation is seized, he may, whether prosecution is instituted or not, order for confiscation of such property. The provisions prescribed are quite stringent.

We are of the view that the condition imposed by the



Court for provisional release of the vehicle is not onerous looking at the facts and circumstances of the case. The petitioner has been asked to offer either one surety along with a bank guarantee or original title deed of immovable property situated within the district.

Thus, the condition imposed by the Court being in alternative, the same does not require any modification.

The application is dismissed.

**(Ashwani Kumar Singh, J)**

**( Prakash Chandra Jaiswal, J)**

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