

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18439 of 2019

=====

Prakash Kumar, S/O Ram Naresh Prasad @ Ram Naresh Thakur, Resident of Mohalla- Aam golee, Mai Sthan Road, Pankha Toli, P.S.- Kazimohammadpur, District Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary Old Secretariat, Patna.
2. The Principal Secretary Department of Excise Bihar, Patna.
3. The District Collector Muzaffarpur District Muzaffarpur.
4. The Superintendent of Police Muzaffarpur District Muzaffarpur.
5. The S.H.O Saraiya P.S Muzaffarpur, District- Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mrs.Nitu Kumari, Advocate
For the Respondent/s : Mr.Kumar Manish (SC-5)

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 16-12-2019

Heard learned counsel appearing for petitioner as well as learned counsel for State.

Petitioner seeks release of Hundai Amaze Car bearing registration no. BR06BQ/5635 which was seized in connection with Saraiya P.S. Case No. 547 of 2019 registered under Sections 30(a), 37(a)(c) of the Bihar Prohibition and Excise Act, 2016.

Submission on behalf of petitioner is that according to prosecution case very meagre amount of liquour was recovered



from the aforesaid vehicle and four persons were caught by the police at the time of aforesaid recovery. He further submits that the petitioner happens to be the owner of the aforesaid vehicle and he was not present at the time of seizure and, moreover, the First Information Report reflects that the aforesaid four persons were caught by the police while they were consuming liquor inside the seized vehicle and, therefore, in the aforesaid circumstance, the seized vehicle may be released in favour of the petitioner.

On the other hand, learned counsel appearing for State submits that the confiscation proceeding of seized vehicle perhaps, has already been initiated and, therefore, the aforesaid vehicle could not be released by this court.

As specifically pleaded at para 9 of this petition that no notice of confiscation has been served upon petitioner as yet and, therefore, he is not in a position to say as to whether confiscation of the said vehicle has been initiated or not.

There is nothing on record to show that the confiscation of the seized vehicle has been initiated or not, but it is admitted position that liquor was recovered from inside the car though, in a very meagre quantity and, therefore, we think it proper to direct the concerned court to obtain a report from the



District Collector, Muzaffarpur in respect of initiation of confiscation of seized vehicle of Saraiya P.S. Case No. 547 of 2019.

In view of the aforesaid facts and circumstances as well as submissions of the parties, this writ petition stands disposed of with direction to Additional Sessions Judge-cum-Special Judge Excise, Muzaffarpur to seek report from District Collector, Muzaffarpur to this effect as to whether any confiscation has been initiated in respect of seized vehicle of Saraiya P.S. Case No. 547 of 2019 or not and if the concerned court finds from the report of District Collector that the confiscation proceeding has not been initiated as yet, then in that circumstance, the concerned court shall release the aforesaid vehicle in favour of the petitioner on execution of bond of Rs. 40,000/- and after verification of original documents of the aforesaid vehicle, with condition that the petitioner produce the aforesaid vehicle whenever and wherever it is required by the court and shall not alienate or transfer the aforesaid vehicle without prior permission of the court.

However, it is needless to say that if the court of District Collector reflects that the confiscation proceeding has already been initiated, then in that event, the concerned court



shall not release the aforesaid vehicle in favour of the petitioner.

It is made clear that if the confiscation proceeding has been initiated, this order shall not cause any prejudice to the District Collector, Muzaffarpur at the time of passing orders in confiscation proceeding.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.12.2019
Transmission Date	

