

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3292 of 2018

Md. Motiur Rahman @ Motiur @ Matiur S/o Azizul Haque, Resident of village- Satahar, P.S. Abadpur, District- Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Excise Department, Bihar, Patna
2. The collector cum District Magistrate, Katihar.
3. The Superintendent of Police, Katihar.
4. The S.H.O. Barsoi Police Station, Barsoi, Katihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Jha

For the Opposite Party/s : Mr.Anil Kumar Sinha - Ga 1

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 23-01-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

The present application has been preferred seeking a modification of the terms and condition as contained in order dated 05.07.2018 passed in C.W.J.C. No. 12659 of 2018 insofar as it directs that on petitioner's furnishing the Bank Guarantee to the satisfaction of the the District Magistrate, Katihar the vehicle in question shall be released. There are other conditions but with regard to those learned counsel for the petitioner has not raised any issue.

It is contended that the petitioner is a poor person and his vehicle under seizure is a Tempo which was being used for earning his livelihood. Altogether 36 liters of illicit liquor is said to have been recovered. The prayer is that the condition of furnishing Bank



Guarantee may be modified by allowing the petitioner to furnish any other security to the satisfaction of the District Magistrate, Katihar to the extent of the value of the vehicle as indicated in the insurance document.

In some of the cases recently considered by this Court, we have taken a view that in case of vehicle being a Tempo which was being used for earning livelihood by the petitioner and the quantity of illicit liquor is not an alarming quantity, the condition of furnishing Bank Guarantee may be relaxed.

Accordingly, in tune with our view taken in some of the cases, we modify the order dated 05.07.2018 passed in C.W.J.C. No. 12659 of 2018 by allowing the petitioner to furnish any other security to the extent of the value of the vehicle as indicated in the insurance document to the satisfaction of the District Magistrate, Katihar. He will also comply with the other conditions mentioned in the order dated 05.07.2018. On his compliance with the aforesaid order, the District Magistrate, Katihar shall not insist for furnishing of the Bank Guarantee.

This application stands disposed off.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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