

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.105 of 2019

Arising Out of PS. Case No.-1078 Year-2018 Thana- AHIYAPUR District- Muzaffarpur

Gangaram Ray son of Parmeshwar Ray, Resident of Village- Nirbhapur, P.S.-
Bhairav Asthan, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna
2. The District Magistrate, Muzaffarpur
3. The Superintendent of Police, Muzaffarpur
4. The S.H.O., Ahiyapur Police Station, District -Muzaffarpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Jha, Advocate
For the Respondent/s : Mr.Kumar Manish, SC-5

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 21-01-2019

This writ petition has been filed by the petitioner seeking a direction to the respondents to release the Tata Bus bearing Registration No. UP17 AT 5345 Chassis No. MAT 44930305HOK 10470 Engine No. 71J84415465 which has been seized in connection with Ahiyapur P.S. Case No. 1078 of 2018 registered for the offences punishable under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

2. Learned counsel for the petitioner submitted that the petitioner is the power of attorney holder of one Nand Kishore son of Sri Mange Ram, who is the registered owner of



the TATA Bus in question. He is in possession of all the valid documents related with the seized vehicle. The bus was plying from Delhi to Khutauna (Madhubani), as it has valid permit for the same. On 04.10.2018, the SHO of the Ahiyapur Police Station received a secret information that at Bakhari Chowk illicit liquor was being unloaded from the bus in question. Upon such information, a raid was conducted. The driver and khalasi of bus fled away seeing the police party and the persons, who were unloading the cartons from the bus, were apprehended. In presence of the two witnesses, a seizure list was prepared in respect of recovery of 247.93 litre foreign liquor. He contended that the vehicle is kept in the premises of the police station in open space and would become junk if the same is not released in favour of the petitioner. He further contended that till date no notice has been received by the petitioner or owner of the vehicle in question relating to initiation of confiscation proceeding by the District Magistrate, Muzaffarpur for confiscation of the vehicle of the petitioner.

3. Per contra, learned counsel for the State submitted that in case no confiscation proceeding has been initiated so far, the petitioner has a remedy under Section 451 of the Code of Criminal Procedure before the court of Special



Judge. He contended that in view of the statutory remedy being available to the petitioner and the petitioner having not availed of the same, the writ petition under Article 226 of the Constitution of Indian would not be maintainable.

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

5. I find substance in the submissions of the learned counsel for the State.

6. In view of an equally efficacious statutory remedy being available to the petitioner, I am not inclined to entertain the present writ petition.

6. Accordingly, the writ petition is dismissed.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
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