

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3389 of 2020

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Sanjeet Kumar Das Son of Lalo Das, Resident of Village- Kudhawa Ward No. 9, P.S.- Chakmehsi, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Bihar, Patna.
3. The District Magistrate-Cum-Collector, Begusarai.
4. The Excise Superintendent, Begusarai.
5. The Officer-In-Charge, P.S.- Barauni, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Md. Hussamuddin Azad
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 10-07-2020

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

Petitioner has prayed for following reliefs:-

“The present writ application is being filed for issuance of an appropriate writ/writs, order/orders, direction/directions to the respondent authorities for issuance of a direction commanding the respondents to release the vehicle, i.e., pickup van of the petitioner bearing Registration No.BR07GA4714, Engine No. GHH1B16306, Chassis No.MA1ZN2GHKH1B23675 in favour of the petitioner which was seized by the officer



Incharge, Barauni P.S. in Barauni P.S. Case No.392/19 registered on 05.09.2019 and for any other relief or reliefs to which the petitioner may be found entitled in course of hearing of this application.”

The informant is Officer-in-Charge of Barauni Police Station, District, Beguasari alleging therein that on 5.9.2019 during night, while he was on patrolling, a Pickup van without number plate was found in a ditch and driver had fled away and from said vehicle, illicit liquor was recovered for which Barauni P.S. Case No.392/19 was registered under Section 30(a) of Bihar Prohibition and Excise Act, 2016 was registered.

It is submitted on behalf of the petitioner that he is owner of the vehicle which was stolen away on 21.7.2019 from Dalsinghsarai Chowk for which Dalsinghsarai P.S. Case No.189/19 was registered on 21.7.2019, as contained in Annexure 3.

It is submitted that vehicle of the petitioner was stolen and same was being misused in transportation of illicit liquor and for which petitioner cannot be held responsible or liable under the Excise Act as such, the seized vehicle may be released in his favour.

Petitioner had filed a petition in the court of Special Judge, Excise, Begusarai where Barauni P.S. Case No.392 of 2019 instituted under Section 30 of the Excise Act is pending



for release of his vehicle in which the Special Court had called a report from the concerned police Station as well as office of the District Magistrate and according to the report submitted, the Superintendent of Police by letter no.828 dated 16.11.2019 had recommended for confiscation of the vehicle as huge amount of liquor was recovered from the seized vehicle and thereafter confiscation proceeding was initiated by the District Magistrate, Begusarai as such, in view of Section 60 of the Excise Act, petition for release was rejected by the Special Court, Excise by its order dated 9.1.2020.

This Court does not find any error or infirmity in the order dated 9.1.2020 passed by the Special judge, Excise, Begusarai in Barauni P.S. Case No. 392/2019 instituted under Section 30(a) of Excise Act refusing to pass any order for release of the vehicle as confiscation proceeding has been initiated by the District Collector, Begusarai and any order with respect to seized vehicle can be passed by the District Collector-cum-Confiscating Officer or any authorized officer for said purpose.

Since the seized vehicle of petitioner was stolen for which he had already instituted an FIR, he cannot be blamed for transportation of the liquor on said stolen vehicle by the



miscreants who were misusing the stolen vehicle of petitioner after removing its registration plate number.

Accordingly, the District Magistrate, Begusarai is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was stolen and subsequently recovered and seized by the police in excise case on production of ownership and registration with respect to vehicle in question in his name with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

- (i) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.
- (ii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when required.
- (iii) Prior to release of the vehicle, a Panchanama would be prepared wherein the photograph of the vehicle shall



be taken and will be certified by the petitioner and same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama.

The release shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above, which would however be subject to finalization of the confiscation proceeding.

With said observations, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2020
Transmission Date	NA

