

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5879 of 2020

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Krishna Kumar, Son of Purusottam Lal Sah, Resident of Village- Sahebganj
Partap Patti, P.S.- Sahebganj, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Collector Sitamarhi.
3. The Superintendent of Police Sitamarhi.
4. The S.H.O. Kanhauli, P.S., Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Tiwary
For the Respondent/s : Mr.Vikash Kumar (SC11)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 13-07-2020

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

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

Petitioner has prayed for following relief:-

“For directing the respondent authority to release one Bolero Complex Goods Carrier (L G V) in question having Registration No.



BR06GA0424, Chesis No.
MA1ZN2GHKB1C21284 which has
been seized in connection with
Kanhauli P.S. Case No. 113 of 2018
dated 11.09.2018 under Section
272/273 of Indian Penal Code and
Section 30(a) of the Bihar Prohibition
and Excise Act, 2016.”

Allegation is recovery of huge quantity of illicit
Nepali wine from the pick-up van and miscreants
accompanying said vehicle fled away on seeing the police and
thereafter illicit liquor and van were seized for which FIR was
lodged giving rise to Kanhauli P.S. Case No. 113 of 2018 dated
11.09.2018 and since illicit liquor was recovered from van
same became liable for confiscation under section 56 of the
Excise Act for which confiscation proceeding has been initiated
by the Collector, Sitamarhi.

Petitioner claims to be the owner of the vehicle and
states that his vehicle was stolen for which he had instituted an
FIR being Sahebganj P.S. Case No. 283 of 2018 dated
01.08.2018 under Section 379 of the Indian Penal Code and his
stolen vehicle was being misused by the accused for trade of



illicit liquor and he is nowhere concerned with said crime and seized vehicle may be released in his favour during pendency of Confiscating proceeding pending before the Collector, Sitamarhi.

In facts and circumstances of the present case when the vehicle of the petitioner was stolen and same was being misused by accused in illicit trade of liquor for which petitioner cannot be faulted as such the confiscating authority is directed to provisionally release the vehicle of petitioner in his favour on due identification and presentation of ownership papers with two sureties (one local) to the extent of the value of the vehicle as indicated in insurance document.

The petitioner while submitting the surety bond shall also furnish the following affidavit/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 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 Panchnama would be got prepared by the confiscating authority wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and the same shall be kept on record so that in future if so required it may be used as a secondary evidence. The petitioner shall undertake not to challenge the said Panchanama in course of proceeding/trial.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

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

