

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7983 of 2020

Rajan Kumar Son of Suresh Prasad, Resident of Mohalla - Mishra Bhawan
Haziyaipur Road, Wards no. 11 Police Station - Gopalganj Town District-
Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Prohibition and Excise, Government of Bihar, Patna.
2. The Collector /District Magistrate, Gopalganj, District- Gopalganj.
3. The Excise Superintendent, Gopalganj District - Gopalganj.
4. The Superintendent of Police, Gopalganj District - Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Umesh Kumar Singh, Advocate
For the Respondent/s : Mr. Vivek Prasad, GP 7

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 : 24-09-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

“1.An appropriate writ in the nature of Mandamus directing the respondent no.2 to release the vehicle to the petitioner, bearing registration No. BR 28 ML 2529 Chassis No.MA1FB2MCRF6B31645, Engine No.MCF6B14645, which is seized and registered the



case bearing Gopalganj Town P.S. Case No. 53 of 2017 under Section 30(a) of the Bihar Excise (Amendment) Act, 2016.

(ii) An appropriate writ in the nature of certiorari for quashing the notice vide memo 129 dated 11.01.2019 passed by the respondent no.2 in Confiscation (Excise) case No.14 of 2019, whereby and whereunder the respondent no.2 has going to confiscated the vehicle of the petitioner on the ground that the same was used for the purpose of committing an offence under Section 30(a) of the Bihar Excise (Amended) Act, 2016.

(iii) Any other writ/writs, order/orders or direction/directions as the facts and circumstances of the case may require and deemed fit by this Hon'ble Court may also be issued."

Informant is a police officer who has stated in her written complaint that on 14.2.2017, she was on patrolling duty along with other police personnel, she received an information from officer in charge of P.S. that in a school bus of BRM School illicit liquor is being carried and as the said bus reached, it was signalled to stop then the driver of the vehicle and one female and male sitting in the vehicle tried to flee away but all were apprehended on chase and from the bag of lady, 16 litre 200 ML. country made liquor was recovered and thereafter the vehicle and country made liquor was seized and accused persons were apprehended for which FIR was lodged giving



rise to Gopalganj Town P.S. Case No. 53 of 2017 under Section 30(a) of the Bihar Excise (Amendment) Act, 2016.

It is submitted on behalf of petitioner that he is innocent and has no concern with the alleged seizure of liquor from his bus. The bus was used for carrying the children from their residence to school and on said date, the driver and cleaner of the bus were taking the bus to its service centre at Gopalganj and a lady with her children took the lift on the bus on the pretext that no other vehicle is available and she has to go to Gopalganj and his two employees permitted her to enter into the bus and they had no knowledge that she was carrying illicit liquor in her bag. It has been further stated that on the recommendation of the police, confiscation case has been initiated being Confiscation Case No.14 of 2019 in which petitioner has already filed his show cause. As there is recovery of illicit liquor from the vehicle, same is liable for confiscation and as such, confiscation case cannot be quashed.

The writ petition is disposed of with a direction to the petitioner to appear before the District Collector/Confiscating Officer, Gopalganj on 05.10.2010 and the Confiscating Officer is directed to conclude the confiscation proceeding within 90 days from the date of receipt/production of a copy of order



passed by this Court, failing which, District Magistrate, Gopalganj shall provisionally release the vehicle of petitioner after due identification of ownership of the vehicle and on production of ownership and registration documents 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	02.10.2020
Transmission Date	NA

