

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7595 of 2020

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Banti Kumar @ Banti Kumar Singh Son of Sri Gopal Singh, resident of
Village - Madhurapur, 01, Ward No. 24, Nager Panchayat - Teghra, P.S. -
Teghra, District - Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Excise and Prohibition Department, Bihar, Patna.
3. The Collector cum District Magistrate, Begusarai.
4. The Incharge Officer, District Legal Cell, Begusarai.
5. The Superintendent of Police, Begusarai.
6. The Superintendent of Excise, Begusarai.
7. The S.H.O cum Officer in Charge, Teghra Police Station, District Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Arun Kumar Sandhya Kumari Sinha Bipin Kumar Deo Sanjay Kumar Sharma, Advocates
For the Respondent/s	:	Mr. Vikash Kumar, SC 11

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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 : 14-09-2020

Heard the parties.

Petitioner has prayed for following relief:-

“By this writ application, the petitioner seeks indulgence of this Hon’ble Court, inter alia, for issuance of an appropriate writ/writs, order/orders, direction/directions commanding the respondents for release of Piyaggio Tempo bearing registration No. BR09PA3205, Engine No.S8J8895501, Chassis No.MBX0003BFWJ720257, which has been seized in



connection with Teghra P.S. Case No.369/2019 on 21.10.2019 registered u/s 414 I.P.C. and 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018 and is kept withheld on account of pendency of the confiscation proceeding bearing vehicle confiscation case no.21/2020 pending in the court of learned Collector cum District Magistrate, Begusarai (respondent no.3) and for any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of the case.”

Informant is a police officer who has alleged in the written complaint that on 20.10.2019 he along with other police personnel was on night patrolling duty and while returning to police station he found one Piyaggio tempo without any registration plate upon which illicit liquor was loaded and illicit liquor and the tempo were seized for which FIR was instituted giving rise to Teghra P.S. Case No.369/2019 on 21.10.2019 registered u/s 414 I.P.C. and 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

It is submitted on behalf of petitioner that he is the owner of the vehicle which was purchased on 18.1.2019 and was snatched away by the miscreants for which he had lodged an informatory petition on 19.10.2019 before the SDJM, Teghra who forwarded it to the officer in charge of Teghra P.S. on 21.10.2019 and two days after same was recovered by the police when the Tempo was found in abandoned condition laden with



illicit liquor. It is further submitted that petitioner moved before the Special Court, excise where the excise case is pending for release of vehicle but same was rejected by learned Special Judge, Excise vide order dated 29.1.2020.

As illicit liquor was recovered from the tempo, as such, same was liable for confiscation under Section 56 of the Excise Act and there being bar of jurisdiction in confiscation under Section 60 of Excise Act, the special court, Excise has rightly refused to release the vehicle as the vehicle was liable for confiscation and no court has jurisdiction to pass any order with regard to such property.

It has been stated that confiscation case is pending before the District Magistrate, Begusarai for confiscation of the seized vehicle being confiscation case no.21 of 2020 and, accordingly, petitioner is directed to appear before the District Magistrate/confiscating officer, Begusarai, on 05.10.2020, if not already appeared and shall file his show cause, if not already filed and the District Magistrate/Confiscating Officer shall decide the confiscation case within 90 days from the date of filing of show cause and if show cause already filed then 90 days from the receipt of copy of order passed by this Court failing which, failing which District Magistrate, Begusarai shall



provisionally release the vehicle of petitioner after due identification of ownership of the vehicle and on production of ownership and registration document 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	
Transmission Date	NA

