

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7327 of 2020

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M/s Venture Supply Chain Pvt. Ltd. its Head Office- H.M.P.- 5950, G/F, Block-K-2, KH, No. 831 Mahipalpur, at Delhi and its Temporary Address is 232A, Kherkiduala, Gurgaon (Haryana), through its authorized representative Girish Kumar Mishra, aged about 23 years (Male), s/o Late Ramashray Mishra, Resident of Village and Post- Nayagaon, P.S.- Rayam, District- Darbhanga, PIN- 847121.

... .. Petitioner/s

Versus

1. The State of Bihar through The District Magistrate Patna.
2. The Commissioner (Excise), Government of Bihar at Patna.
3. The District Magistrate, Patna.
4. The Senior Superintendent of Police, Patna, District- Patna.
5. The Officer-in- Charge, Gardanibagh Police Station, District- Patna.
6. Kunti Kumari, w/o/d/o Not known, The Investigating Officer of Gardanibagh P.S. Case No. 740/19

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mahendra Thakur
For the Respondent/s	:	Mr. Vikash Kumar SC-11

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

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 28-08-2020

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

Petitioner has prayed for the following relief:-

“ That this writ application is being filed on behalf
of petitioner above named for the release of his



truck (Container) bearing Registration No. HR 55 Y /9245, chasis no. MB1A3EFD0GPAU6959, Engine No. GAPZ126487, with its articles which was loaded over the same, which have been seized in connection with Gardanibagh P.S. Case No. 740 of 2019, registered U/s. 279, 427, 337, 338 of the I.P.C. and Section 30(a)/34 of Bihar Prohibition and Excise Act, 2018, and for any other appropriate writ/writs, direction/directions, order/orders, as this Hon'ble court thinks fit and proper in the facts and circumstances of this case.”

It has been submitted on behalf of petitioner that his company is carrying business of transportation of goods throughout India and has valid permit for it. Truck loaded with goods of a firm from Patna was to be delivered at Ranchi, however, Truck met an accident and the local people ransacked and damaged the Truck and driver and co-driver fled away. Thereafter, police came and it is alleged that from behind the seat of the driver 350 ml of illicit foreign liquor was recovered giving rise to Gardanibagh PS Case No. 740 of 2019 under various sections of IPC and section 30(a) of Bihar Prohibition & Excise Act, 2018 and the truck along with articles loaded and



illicit liquor were seized. As there is recovery of illicit liquor from the seized truck, as such same is liable for confiscation under Section 56 of the Excise Act and in view of bar of jurisdiction under Section 60 of the Act, the Special Court had rightly refused to pass an order for release of the truck by its order dated 12.02.2020 as contained in Annexure-5.

It has been submitted that alleged recovery of 350 ml. of liquor is false and after accident the driver and co-driver fled away. Mob assembled there ransacked and damaged the truck and some unscrupulous element kept the alleged liquor behind the driver's seat to harass and frame the driver and co-driver of the Truck.

In peculiar facts and circumstances of present case, the District Magistrate-cum-Confiscating Officer, Patna is directed to provisionally release the seized truck of petitioner after due identification of ownership of the Truck on production of ownership and registration with respect to Truck in question in his name with two sureties (one local) to the extent of the value of the Truck 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)

Rajiv/-

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

