

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7993 of 2020

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Dilip Kumar @ Dileep Kumar Son of Nanhu Sah Resident of Village -
Jalpurwa Police Station - Barauli 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

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Appearance :

For the Petitioner/s : Mr.Umesh Kumar Singh, Advocate
For the Respondent/s : Mr. Kumar Manish, SC 5

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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 : 24-09-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

- (i) An appropriate writ in the nature of mandamus directing the respondent no.2 to release the vehicle to the petitioner bearing registration No.BR29 PA 4174 Chassis No. MAITA2TDKH2A14824, Engine No.TDH4A75092, which is seized and registered the case bearing Phulwariya P.S. Case No. 267/2019 Gr. No.1555/2019 for the alleged offences of Sections 30(a), 32(ii) and 41(1) of Bihar Prohibition and Excise Act, 2018.
- (ii) 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 alleged in his written complaint that on 19.12.2019, in the morning, he received a confidential information that one vehicle is likely to pass through the area with illicit liquor and upon getting said information he along with other police personnel kept a vigil on the road and soon he saw a white coloured Scorpio and on being followed, the driver of the said vehicle fled away leaving the vehicle and on search of the vehicle, 250.2 litres illicit foreign liquor was recovered and accordingly, illicit liquor and vehicle was seized and FIR was lodged against the owner and driver of the seized vehicle giving rise to Phulwariya P.S. Case No. 267/2019 Gr. No.1555/2019 for the alleged offences of Sections 30(a), 32(ii) and 41(1) of Bihar Prohibition and Excise Act, 2018.

It is submitted on behalf of petitioner that he is innocent and has been falsely framed in this case. As there is recovery of illicit liquor from the vehicle, as such vehicle is liable for confiscation under Section 56 of the Excise Act. It is submitted that on recommendation of the police, confiscation case has been initiated against the seized case being confiscation case no.199 of 20 and petitioner is directed to appear in the court of the District Magistrate / Confiscating Officer on 13.10.2020 and



file his show cause and Confiscating Officer shall thereafter conclude the confiscation proceeding within 90 days from the date of filing of show cause failing which District Magistrate / Confiscating Officer, 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

