

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8032 of 2020

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Nitin Kumar Son of Ram Shankar Singh Resident of Village and P.O.-Shahi
Minapur, P.S. and Block- Aurai District-Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The District Magistrate, Sitamarhi.
3. The Superintendent of Police, Sitamarhi.
4. The Station House Officer, Nanpur Police Station, District - Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amrit Abhijat
		Mr. Manoj Kumar Gupta, Advocates
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 : 28-09-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

A. To issue a writ in the nature of mandamus directing/commanding the respondents to release Yodha Eco Pick-up vehicle bearing registration No.BR-06GE 1527, in favour of petitioner which has been seized in connection with Nanpur P.S. Case No. 219/2020 registered under Sections 30(a)/38/41 of Bihar Prohibition and Excise Act, 2016.

B) Any other relief or reliefs, writ or writs, direction or directions which this Hon'ble Court may deem fit and proper in the facts and circumstances may



also be granted.”

Informant is a police officer who has alleged in his self-statement that on 20.06.2020, he received a confidential information that FIR named accused have stored illicit foreign liquor in huge quantity and upon receiving said information, he along with other police personnel reached said place and on seeing the police, persons assembled there started fleeing away but five of them were nabbed and rest managed to escape and from said place, vehicles parked were found to be laden with foreign liquor including the vehicle in question from which huge quantity of illicit liquor was recovered.

As there is recovery of foreign liquor from the seized vehicle, same is liable for confiscation under the Excise Act. It is submitted that on recommendation of police, confiscation proceeding has been initiated against the seized vehicle being confiscation case No.86 of 2020 as such, petitioner is directed to appear in the court of the District Magistrate / Confiscating Officer on on 12.10.2020 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, Sitamarhi 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	03.10.2020
Transmission Date	NA

