

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8685 of 2020

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Sujeet Kumar Singh @ Sujit Kumar Singh Son of Ram Shakal Singh @ Ram Sakal Singh, resident of Village - Raypura, P.S.- Aurangabad, District Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Home (Police), Department, Government of Bihar, Patna.
2. The Principal Secretary, Excise Act Prohibition Department, Government of Bihar.
3. The District Magistrate, Kaimur (Bhabhua).
4. The Director General of Police Kaimur (Bhabhua).
5. The Superintendent of Police, Kaimur (Bhabhua).
6. The S.H.O. of Mohaniya Police Station, District - Kaimur (Bhabhua).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ramanuj Mr. Rajesh Roy, Advocate
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 : 05-11-2020

Heard the parties.

Petitioner has prayed for following relief:-

“The present writ application has been preferred
for issuance of writ of mandamus commanding the



respondents to release the Bus of the petitioner having registration No.BR26K-4199 which has been seized by the respondents in connection with excise Case No.919 of 2019 arising out of Mohaniya P.S. Case No.515 of 2019 dated 11.12.2019 registered for the alleged offences u/s 279/337/338/427 of IPC and Section 30(a) of the Bihar Excise & Prohibition Act, 2016 and for issuance of other appropriate writ / writs, direction / directions, order / orders in the facts and circumstances of this case.”

Informant is a police officer who in his written complaint has alleged that on 11.12.2019 while he was on patrolling duty along with other police personnel he received an information that one bus has turned turtle while passing through NH 2 and upon receiving said information, he reached the place of accident and saw the bus overturned in which passengers are trapped in injured conditions and thereafter passengers were taken out and sent to hospital for treatment who informed him that bus is coming from Anand Bihar, Delhi and was going to Hajaribagh and the driver of the bus was driving in a rash and negligent manner as a result of which, bus turned turtle.

Driver of the bus had fled away and from the cabin of driver, illicit liquor was recovered and thereafter illicit liquor and bus were seized giving rise to Mohaniya P.S. Case No.515 of 2019 dated 11.12.2019 registered for the alleged offences u/s



279/337/338/427 of IPC and Section 30(a) of the Bihar Excise & Prohibition Act, 2016.

It is submitted on behalf of petitioner that he is owner of the bus and has valid permit to ply the bus and had no knowledge that driver had kept illicit liquor in his cabin for his consumption. He had moved an application before the Special Judge, Excise, kaimur at Bhabhua for release of his bus in excise case no.919 of 2019 which was rejected by the learned Special Judge, Excise by his order, as contained in Annexure 3.

As there was recovery of illicit liquor form the seized bus, as such, same is liable for confiscation under Section 58 of the Excise Act and as such, the application for release of bus was rightly rejected by the Special Judge, Excise, Kaimur in view of bar of jurisdiction under Section 60 of the Excise Act, accordingly to which no court can pass any order with respect to articles which are liable for confiscation under Section 58 of the Excise Act.

In the facts and circumstances of the present case, the District Magistrate/ Confiscating Officer, kaimur shall provisionally release the bus in favour of petitioner, if confiscation proceeding has not been concluded, 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:

1. 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.
2. The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority or the trial court as and when required.
3. 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	16.11.2020
Transmission Date	NA

