

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9034 of 2020

Manish Kumar, Son of Daya Krishna Prasad, Presently residing at Khasra No. 141/5, Gali No. 6, Milan Vihar, Sant Nagar, Burari, North Delhi, Delhi. Permanent resident of C/o Rajendra Prasad, Resident of Village/Post -Lapsee Sonha, Basti Uttar Pradesh.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The District Magistrate-Cum-Collector, Muzaffarpur.
5. The Superintendent of Police, Muzaffarpur.
6. The Dy. Superintendent of Police, West Muzaffarpur, Muzaffarpur.
7. The S.H.O. Kanti Police Station, District-Muzaffarpur.
8. The Investigating Officer, Kanti P.S. Case No. 135 of 2018, District-Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anuj Kumar, Adv.
For the Respondent/s	:	Mr. Kumar Manish, SC 5

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

Date : 09-12-2020

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

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

Petitioner has prayed for following reliefs:-

(A) "For releasing the Tata Motors Bus



bearing Registration No. UP51AT882, Engine No. 91H84895484, Chassis No. MAT449305KOH10828 seized in connection with Kanti P.S. Case No. 613 of 2020 dated 05.10.2020 instituted under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018 awaiting confiscation.

(B) To any other relief/s to which the petitioner is found entitled to.”

Informant who is a police officer has alleged that on 05.10.2020 while he was on patrolling duty with other police personnel, he received information from SHO that on a bus bearing Registration No. UP51AT882 illicit liquor is being carried and thereafter the bus was stopped and on search 2 bottles containing 1.500 ml. of foreign liquor was recovered from sleeper seat in a red bag. Accordingly, the driver of the bus was arrested and the bus and illicit liquor were seized giving rise to Kanti P.S. Case No. 613 of 2020 dated 05.10.2020.

It is submitted that petitioner is the owner of the tourist passenger bus and resides at Delhi and allegation is recovery of 1.500 ml. of foreign liquor from a sleeper seat of a passenger for which petitioner cannot be held to be liable and responsible. There are no independent witnesses of search and seizure and police constables have been made witnesses on seizure memo. There are discrepancy in contents of FIR and



seizure memo.

In the facts and circumstances of the case, the District Magistrate, Muzaffarpur/Confiscating officer, Muzaffarpur is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle 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)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2020
Transmission Date	NA

