

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8999 of 2020

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Ritesh Jaiswal, Son of Pradip Jaiswal, Resident of -Dalsingpara Bazar, Police Station-Kalchini, District-Jalpaiguri, West Bengal.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
2. The Principal secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
3. The District Magistrate, Bhagalpur.
4. The Superintendent of Police, Bhagalpur.
5. The officer-in-Charge, Habibpur P.S., Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha, Adv.
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)

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:-

- (i) “For issuance of writ in the nature of mandamus or any other appropriate writ for directing the respondents to release the Hyundai Venue Car bearing



registration no. WB74BA3890,
Chassis No.
MALFC81AVKM037447, Engine No.
G3LCKM845178 in favour of
petitioner as the same has been seized
in connection with Habibpur P.S. Case
No. 114 of 2020 registered under
Sections 30(a) of the Bihar Prohibition
and Excise Act, 2016.

(ii) For issuance of any other
appropriate writ, order or direction
which his lordship may deem fit and
proper in the facts and circumstances
of the case.”

Petitioner is the owner of seized vehicle which he
had hired to Army Personnel who were duly authorized by the
competent authority to carry liquors. Army personnel were
going on leave on his hired car, which was seized by the police
under the excise act for carrying liquor giving rise to Habibpur
P.S. Case No. 114 of 2020 under Section 30(a) of the Excise
Act.

In the facts and circumstances of the case, the
District Magistrate, Bhagalpur/Confiscating officer, Bhagalpur
is directed to provisionally release the vehicle of petitioner after
due identification of ownership of the vehicle which was stolen
and subsequently recovered and seized by the police in excise
case 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

