

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9605 of 2020

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Yogendra Kumar Dube, Son of Bachcha Yadav, Resident of Village - Ward
No.1, Ghevarahi, P.S. - Dhanaha, District - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition
Department Secretariat, Patna.
2. District Magistrate, West Champaran at Bettiah.
3. Additional District Magistrate, West Champaran at Bettiah.
4. Superintendent of Police, West Champaran at Bettiah.
5. Station House Superintendent, Police Station- Dhanaha, District - West
Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Adv.
For the Respondent/s : Mr. Vikash Kumar, S.C. 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 : 22-12-2020

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 respondents.

Petitioner has prayed for following reliefs:-

(I) "To set aside the ex-
parte order dated 05.10.2020
passed by the respondent
Additional District Magistrate,
West Champaran at Bettiah in



C.R.M. Case No. 540/2019-20 arising out of Dhanaha P.S. Case No. 38/2019 instituted for alleged offence under Sections 30(a) of Bihar Prohibition and Excise Act, 2016, whereby, misinterpreting the provision contained in Sub-Rule (kha) of Rule, 56 of the Bihar Prohibition and Excise Act, the EON Car owned by the petitioner bearing registration No. BR 22 AE-2678, has been confiscated with a direction to the Superintendent of Excise, West Champaran to put the said motor vehicle on auction with the help of the concerned S.H.O. of concerned police station, at the minimum floor price determined by the motor vehicles Inspector, Bettiah. A further direction has been issued to deposit the auction proceeds in the Government Treasury.

(ii) Further prayer is to restrain the respondents, particularly the respondent District Magistrate, West Champaran at Bettiah from putting the motor vehicle of the petitioner i.e. EON Car bearing registration no. BR-22 AE-2678 on auction sale.

(iii) The petitioner further prays for a direction to the respondents, particularly the respondent District Magistrate, to release the said motor vehicle of the petitioner, by awarding



punishment of reasonable monetary fine against him considering the fact that the petitioner has been proceeded against for a petty offence of carrying only half bottle of Beer measuring only 500 ML of the same, which, by no stretch of imagination be termed for as transportation of alcohol. Alcohol content for the purpose of its sale in contravention of Section 55 and /or other ancillary provisions of Bihar Prohibition and Excise Act, 2016.”

Petitioner has approached this Court without exhausting the statutory remedy of appeal against the order dated 05.10.2020 passed by the Confiscating Authority/Additional District Magistrate, West Champaran at Bettiah in C.R.M. Case No. 540/2019-20 arising out of Dhanaha P.S. Case No. 38/2019 instituted for alleged offence under Sections 30(a) of Bihar Prohibition and Excise Act, 2016.

The writ petition is disposed of with liberty to petitioner to avail the remedy of appeal against the order passed by the Confiscating Authority/Additional District Magistrate and, if any, appeal is filed by the petitioner within eight weeks, the appellate authority shall condone the delay in filing appeal and decide the appeal on merit within eight weeks from the date of its filing.



During pendency of appeal, the vehicle shall not be
auction sold, if not already auction sold.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.01.2021
Transmission Date	NA

