

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17456 of 2019

=====

Mukesh Kumar Pandey, Son of Devendra Pandey, resident of Village-Sarmaspur Kalwari, P.S.-Kanti, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Superintendent of Police, Muzaffarpur.
4. The Superintendent of Excise, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Manoj Kumar, Adv.
For the Respondent/s : Mr.Vikash Kumar (Sc11)

=====

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

Date : 24-08-2020

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 relief:-

“For issuance of an appropriate writ/order/direction particularly in nature of Mandamus for directing the learned Special Judge, Excise, Muzaffarpur, to



release the Maruti WAGON R VXi bearing Registration No. BR 06BS 6202, Engine No. MA3EWDE1S00E51262, Chassis No. K10BN5032488 which was illegally seized in Ahiyapur P.S. Case No. 795 of 2019 dated 03.07.2019 registered under Section 30(a), 36, 48 of the Bihar Prohibition and Excise Act, 2016 for recovery of 137.340 litres foreign liquor from the truck and 116.250 litres from i20 car of Hyundai Company. Confiscation proceeding has not yet been initiated in the court of District Magistrate, Muzaffarpur.”

It has been submitted on behalf of counsel for the State that Confiscation Case being Confiscation Case No. 5 of 2020-21 has been initiated against the registered owner of the seized vehicle for which notices has been issued for his appearance, as such, petitioner is directed to appear before the Confiscating Officer and file his show cause.

It is submitted on behalf of petitioner that from the FIR as well as seizure memo, it is apparent that no illicit liquor



was recovered from the seized WAGON R, as such, seized vehicle is not liable for confiscation under Section 56 of the Excise Act. The Excise Commissioner, Bihar Patna in appeal arising out of Confiscation Case No. 107 Ajit Roy Vs. Collector, Sheohar on the basis of judgment and order passed by this Court has held that transportation of prohibited article under the act is a sine qua non for a vehicle to be confiscated.

The relevant paragraph of order passed in Appeal by Excise Commissioner is quoted below:-

“From the aforesaid judgment and order passed by the Hon’ble High Court of Patna it is well established that the transportation of prohibited article under the Act, 2016, is a sine qua none for a vehicle to be confiscated on the passing of an order by the District Collector. Therefore the confiscation order passed by the learned Collector, Sheohar in confiscation Case No. 107/2019 on 09.12.2019 is hereby ordered to be modified to the extent that the three motorcycles bearing registration No. BR-



06BJ 6591; BR-06BL 5384 and BR-55
4036 will be released after verifying the
document related to registration and
owner of the said vehicle.”

With aforesaid observation, the writ petition is
disposed of and Confiscating Officer shall pass final order
within 30 days from the date of receipt/production of a copy of
order passed by this Court.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

