

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18042 of 2019

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Sona Lal Yadav, S/O. - Timal Yadav, R/O. village- Ward No. 07, Ahirwa Tola,
Raxaul, P.S.- Ramgarhwa, Dist. - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise Department,
Government of Bihar, Patna.
2. The Divisional Commissioner Tirhut Commissionaire, Muzaffarpur.
3. The District Magistrate-cum-Collector, East Champaran at Motihari.
4. The Superintendent of Police, East Champaran at Motihari.
5. The S.H.O of Ramgarhwa Police Station, East Champaran at Motihari.
6. The Investigating Officer of Ramgarhwa P.S. Case No. 241/2017 East
Champaran at Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Adv.
For the Respondent/s : Mr. Kumar Manish, S.C-5
Mr. Kumar Pankaj, AC to SC-5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

Date : 24-01-2020



Heard Mr. Ajay Kumar Singh, learned counsel for the petitioner and Mr. Kumar Pankaj, learned AC to SC-5 for the respondent-State.

The present writ application has been filed for release of Tata Sumo vehicle in favour of the petitioner bearing Registration No. BR1AP0188 seized in connection with Ramgarhwa P.S. Case No.241 of 2017 registered for the offences punishable under Sections 272, 273 of the Indian Penal Code, 1860 and Section 30(a) of the Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of 2018 (hereinafter referred to as 'the Act') . The prayer as stipulated in paragraph No.1 of the writ petition reads as under :-

“(i) For issuance of writ in nature of Mandamus or any other appropriate writ(s), order(s), directions to the respondents to release the Tata Sumo vehicle (Telco Jeep) bearing registration no. BR1AP 0188, Chassis No.-KWZ931383, Engine No. KWZ917738, which has been seized in connection Ramgarhwa P.S. Case No. 241/2017, dated 10/11/2017, registered for the offences under sections 272 and 273 of the I.P.C. and u/s 30(a) of the Bihar Prohibition and Excise Act,



2016.

(ii) For issuance of any other appropriate writ(s), order(s), directions (s) for which the petitioner is entitled in the facts and circumstances of the case.”

The prosecution case as per the self-statement of S.I., Rajesh Kumar, S.H.O., Ramgadhwa Police Station recorded on 10.11.2017 is to the effect that on the basis of secret information that illicit liquor is being transported, the vehicle in question was intercepted and from the said vehicle, total 478.500 litres of Nepali liquor was recovered, leading to registration of Ramgarhwa P.S. Case No. 241 of 2017.

It is submitted by learned counsel for the petitioner that the petitioner is the registered owner of the vehicle in question. A copy of the registration certificate of the seized vehicle has been brought on record, as contained in Annexure-2. It is further submitted that at the time of alleged seizure, the petitioner was not present in the vehicle in question, hence, he has not been made accused in the FIR and the said vehicle is rotting under the open sky. Though the confiscation proceeding has been initiated, but after two years of the actual seizure, which is contrary to the provisions of Section 58(1) of the Act,



as Section 58(1) of the Act envisages transmission of the report for initiation of proceeding without any reasonable delay. Moreover, the report/recommendation for initiation of confiscation proceeding has been transmitted by the Superintendent of Police, East Champaran at Motihari, vide Letter No. 2644, dated 11.12.2015, initially by mentioning wrong registration number of the vehicle, though subsequently, it was corrected. .

Mr. Kumar Pankaj, learned AC to SC 5 submits on the basis of counter affidavit filed on behalf of respondent No.3, the District Magistrate, East Champaran, Motihari that paragraph No.5 of the counter affidavit suggests that on the proposal of the Superintendent of Police, East Champaran at Motihari, Confiscation Proceeding No. 499 of 2019 has been initiated. It is further submitted that the proceeding of the said confiscation case will be concluded within a time frame. Hence, in that background, let the vehicle in question be not released.

After having heard learned counsel for the parties and perusal of Annexure-R2, annexed with counter affidavit, it appears that the Superintendent of Police, East Champaran at Motihari has initially transmitted recommendation for initiation of confiscation proceeding with a wrong registration number of



the vehicle, but subsequently it was corrected. The corrected registration number of the vehicle is BR1AP0188, whereas, it was initially mentioned as BR1AP-0188. The vehicle was seized on 10.11.2017 and on the date of seizure, it was registered in the name of Md. Sakil whereas it was transferred in favour of the petitioner on 06.02.2018, i.e., during pendency of the present writ application which suggests that perhaps due to the said reason, the present application was registered on 31.08.2019. In the present case, not only the government authority initiated the proceeding with inordinate delay but also the petitioner avails the legal remedy for release of the vehicle in question after about more than two years of the actual seizure.

In the circumstances, we are not inclined to interfere into the writ petition.

However, it is expected that the Respondent No. 3, the District Magistrate-cum-Collector, East Champaran at Motihari to conclude the proceeding of Confiscation Case No. 499 of 2019 within a period of six weeks from the date of receipt/production of a copy of this order, in accordance with law.

The petitioner is also expected to appear regularly and participate in the confiscation proceeding.



Accordingly, with the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

Ashwini/-

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

