

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Criminal Writ Jurisdiction Case No.3414 of 2018**

Arising Out of PS. Case No.-252 Year-2018 Thana- GAIGHAT District- Muzaffarpur

Md. Murtuja Son of Md. Mojib Sah Resident of Village - Bela
Pachagachhiya, P.S. Ahiyapur, District Muzaffarpur.

... .. Petitioner

Versus

1. The State Of Bihar Through Chief Secretary, Bihar, Patna
2. The District Magistrate, Muzaffarpur.
3. The Excise Superintendent, Muzaffarpur.
4. The Superintendent of Police, Muzaffarpur.
5. The Officer-in-Charge, Gaighat Police Station, Muzaffarpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Hari Kishore Thakur, Advocate
For the Respondent/s : Mr.Kumar Manish Sc5

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 24-09-2020 Heard learned counsel for the petitioner and Mr. Kumar
Manish, learned SC 5 for the State.

The petitioner in the present case has prayed for the
following reliefs:-

“1.That this is an application for issuance of a writ
in the nature of Mandamus commanding and
directing the Respondent authorities to release the
vehicle Bolero Pick-up bearing Registration no.
BR06GB-0615 which has been seized under
Sections 414, 467, 468, 272, 273 and 34 of the
Indian Penal Code and Section 30(a) of the Bihar
Prohibition and Excise Act in connection with
Gaighat P.S. Case No. 252/2018 dated 1/8/18 as
the driver Sanjay Kumar was arrested along with 8
bottles of foreign liquor (six litres) which was kept
in vehicle.

And/or issue any other appropriate Writ/Writs,
order/orders, direction/directions for which the
petitioner may be found legally entitled to in the
facts and circumstances stated hereunder.”



After hearing learned counsel for the petitioner and the State, this writ application is being disposed of with a direction to the Respondent No. 2 to consider the prayer of the petitioner in the light of the judgment of the Hon'ble Division Bench of this Court in the case of **Umesh Sah vs. State of Bihar and Ors.** reported in **2020 (4) BLJ 566.**

The operative parts of the judgment in **Umesh Sah (supra)** extracted hereunder for a ready reference:-

“9. Without adjudicating the petitioner's petition on merits, we are of the considered view that interest of justice would be best met, if the petition is disposed of in the following terms:-

(a) Since the vehicle in question stands seized in relation to the FIR which stood registered long ago, in case confiscation proceeding has not been initiated, it must be initiated within a period of 15 days from today and that confiscation proceeding stands initiated, we direct the appropriate authority under the Act to forthwith ensure that such proceedings be concluded not later than 30 days.

(b) The petitioner undertakes to make himself available in the office of the concerned appropriate authority empowered under Section 58 of the Act i.e. District Collector, in his/her office on 04.02.2020 at 10:30 A.M.

(c) We further direct the appropriate authority to positively conclude the confiscation proceeding within next thirty days on appearance of the petitioner. If for whatever reason, such proceeding cannot be concluded, in that event it shall be open for the authority to take such measures, as are permissible in law, for release of the vehicle in question by way of interim measure, on such terms as may be deemed appropriate, considering the attending facts and circumstances of the case.

(d) If eventually, the appropriate authority arrives at a conclusion that the property is not liable to be confiscated, it shall be open for the petitioner to seek



damages in accordance with law and have appropriate proceedings initiated against the erring officials/officers.

10. Learned counsel for the petitioner states that the certified copy of the order shall be made available to the concerned District Collector on the date so fixed.

11. For future guidance, where parties have not approached this Court, we issue the following direction:-

12. The expression "reasonable delay" used in Section 58 of Chapter VI of the Act, in our considered view, necessarily has to be within a reasonable time and with dispatch, which period, in our considered view, three months time is sufficient enough for any authority to adjudicate any issue, more so, when we are dealing with confiscatory proceedings."

Petitioner is also at liberty to file an appropriate application before Respondent No. 2 for the reliefs prayed in this Writ Application. Petitioner may appear in person or through his learned Advocate on or before 15.11.2020 during working days.

The application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

