

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11708 of 2018**

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Lal Singh, Son of Trilok Singh, resident of village - Rangar Nagal, P.S. - Rangar Nagal, District - Gurdaspur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Inspector General of Police, Bihar, Patna.
5. The District Magistrate/Collector, Vaishali at Hajipur.
6. The Senior Superintendent of Police, Vaishali at Hajipur.
7. The Excise Superintendent of Police, Vaishali at Hajipur.
8. The Officer-in-Charge of Sarai Police Station, District Vaishali.
9. The Investigating Officer of Sarai P.S. Case No. 199/17, Sarai Police Station District - Vaishali.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Anuj Kumar, Adv.  
For the Respondent/s : Mr. Kumar Manish -S.C. 5

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

**Date : 17-12-2020**

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 release the truck bearing registration no. PB 06J 2397, in favour of the petitioner which was seized by the police in connection with Sarai P.S. Case No. 199/17 dated 06.11.2017 registered for the offence under Section 414, 120B of I.P.C. and Sections 30(a), 35(a) of Bihar Prohibition and Excise Act, 2016 awaiting confiscation.

(ii) to any other relief/reliefs for which the petitioner found entitled too.

Counter affidavit has been filed by respondent nos. 5 and 6 in which it has been stated that confiscation case being confiscation case no. 122/2017-18 was initiated against the seized vehicle and show cause notice was issued to the owner but he did not turn up to contest the proceeding, although notices were validly served upon him and by order dated 07.08.2018 passed by the District Collector-cum-confiscating authority, Vaishali, the seized vehicle was confiscated, as such, present petition for interim release of seized vehicle during confiscation proceeding has become infructuous.

It is submitted on behalf of petitioner that no notice was ever served upon him and the final ex-parte order was passed in absence of any notice upon petitioner who is the owner of the seized vehicle.

The writ petition is disposed of with liberty to petitioner to file an application for recall of ex-parte order on



the ground that no notice was served upon him and the District Collector-cum-confiscating authority shall verify from the records, if notices were properly served upon petitioner as per rules or not and if he comes to the conclusion that notices were not validly served upon petitioner he shall recall the ex-parte order and pass a fresh order after giving opportunity to the petitioner to file his show cause and shall pass a final order after hearing both the parties. However, if the District Collector finds that in spite of valid service of notice petitioner did not appear then ex-parte order shall not be recalled and petitioner will be at liberty to challenge said ex parte order before the appellate authority.

With the aforesaid observation and liberty, the writ petition is disposed of.

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

veena/-

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| AFR/NAFR          | NAFR       |
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