

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Criminal Writ Jurisdiction Case No.3321 of 2018**

Arising Out of PS. Case No.-388 Year-2016 Thana- BARACHATTI District- Gaya

Subodh Mahato, son of Jagdish Mahto, resident of village-Dhangi, P.S. 204 Rowam Dhanbad, District-Dhanbad, State-Jharkhand (owner of Vehicle Tata Sumo bearing Reg. No.- JH 10AH 6646)

... .. Petitioner/s

Versus

1. The State Of Bihar Through The District Magistrate, Gaya
2. The District Magistrate, Gaya
3. The Superintendent of Police, Gaya
4. Officer- In Charge- Borachatti , Gaya, Bihar
5. The Superintendent (Excise), Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Mukesh Kumar No-1
For the Respondent/s	:	Mr.Rewati Kant Raman, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 16-10-2020 Learned counsel for the petitioner is present but it seems that he is facing some technical glitches. Mr. Revati Kant Raman, learned counsel for the State is present.

Learned counsel for the State submits that this application has been filed for a direction to the District Magistrate, Gaya to release Tata Sumo bearing Reg. No.JH10AH6646 which has been seized in connection with Barachatti P.S. Case No.388/2016 for the offence under Sections 272, 273 and 203 of the I.P.C. and Sections 47(a)/48(2)/63 of the Bihar Prohibition and Excise Act, 2017.

Learned counsel for the petitioner submits that it is



not known as to whether any confiscation proceeding has been initiated by the District Magistrate, Gaya (respondent no.2.)

Learned counsel for the parties are in agreement that this writ application may be disposed of in the light of the judgment of the Hon'ble Division Bench 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 paragraph 9, 10, 11 and 12 read as under:-

“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."

It is thus submitted that the District Magistrate, Gaya (respondent no.2) be directed to pass an appropriate order including an order for release of the vehicle in question within a reasonable time.

Learned counsel representing the State has no objection if the writ application is disposed of in the light of the judgment of the Hon'ble Division Bench of this Court which have been noticed hereinabove.

In the given facts and circumstances, this writ application is being disposed of with a direction to the respondent no.2 to consider the case of the petitioner and pass an appropriate order including an order for release of the vehicle on question in the light of the judgment of the Hon'ble Division Bench of this Court in the case of **Umesh Sah** (supra). He would be obliged to adhere to the



timeline indicated by the Hon'ble Division Bench in the case of **Umesh Sah** (supra). If so advised, the petitioner will also be at liberty to bring it to the notice of Respondent No. 2 by filing an appropriate application, however, from the judgment of the Hon'ble Division Bench itself it is clear that the respondent no.2 is obliged to proceed and pass an appropriate order within the time fixed by the Hon'ble Division Bench. In this connection petitioner may either in person or through his Advocate appear before Respondent no.2 on or before 03.12.2020 during working days.

The writ 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'.

