

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.315 of 2020

Himanshu Srivastava, S/o Late Harichandra Srivastava @ Late Harish Chandra Srivastava, R/o Ansala Sushant Gol City (Flat No.303, E Block, Paradise Crystal Apartment, Amar Shahid Path), P.S.- P.G.I., District- Lucknow at present R/o Budha Colony Near P.D. College, P.S.- Budha Colony, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Excise Commissioner, Bihar, Patna.
3. D.M., Patna.
4. S.S.P., Patna.
5. S.H.O., Gardanibag, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms. Rina Sinha, Adv.
For the Respondent/s : Mr. Vivek Prasad, GP-7
Ms. Manisha Singh, AC to GP-7

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and

HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

Date : 06-02-2020

Heard learned counsel for the petitioner and learned
AC to G.P-7 for the respondent-State.

The present writ application has been filed for



release of Santro car of the petitioner, bearing Registration No. UP-32-BZ-1615, which was seized in connection with Gardanibag P.S. Case No. 668 of 2019, Special Case No. 9810 of 2010, registered for the offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018 (hereinafter referred to as 'the Act').

The prosecution case got initiated on the basis of written report of Awadhesh Pandey, A.S.I. of police, submitted to the Inspector-cum-S.H.O., Gardanibagh Police Station is to the effect that on the basis of secret information received, a Santro Car was intercepted and from the same, 9 litres of Indian Made Foreign Liquor were recovered, leading to registration of Gardanibag P.S. Case No. 668 of 2019, Special Case No. 9810 of 2010.

It is submitted by learned counsel for the petitioner that the petitioner claims to be the registered owner of the vehicle in question and a copy of certificate of registration has been brought on record as Annexure-2.

It is submitted by learned counsel for the respondents on the basis of counter affidavit, dated 05.02.2020, filed on behalf of Respondent No.3 that the vehicle in question has already been confiscated vide order dated 24.12.2019, passed in



Confiscation Case No. 2324 of 2019-20 by the Collector-cum-District Magistrate, Patna and the S.D.O., Patna Sadar has been directed for auction sale of the vehicle in question. The said order has been brought on record as Annexure-B to the counter affidavit.

Considering the fact that final order has been passed in the confiscation proceeding and the Act provides an alternative efficacious remedy of appeal by virtue of Section 92(2) of Chapter IX of the Act against the order passed by the Collector before the Excise Commissioner within ninety days of the order complained of, the present writ application is disposed of with a liberty to the petitioner to prefer appeal within a period of four weeks along with an application for condonation of delay. If such appeal is filed by the petitioner, the appellate authority is expected to consider application for condonation of delay in view of the fact that the writ application of the petitioner was pending before this Court and dispose of the appeal within a period of ten weeks from the date of its filing.

Needless to say, in case the vehicle in question has not been auctioned sold till date, it will not be put on auction sale till the disposal of appeal before the appellate authority, if so filed.



With the above observation, the writ application stands disposed of.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

