

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.136 of 2020

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Satjeet Kumar Govind @ Govind Kumar Son of Ashok Prasad Resident of Village-Karpuri Chowk, Pupri Bazaar, Janakpur Road, Ward NO. 6, P.S.-Pupri, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate, Sitamarhi.
4. The Superintendent of Police, Sitamarhi.
5. The Sub Inspector Excise, Sitamarhi.
6. The A.S.I. Cum SHO of Pupri Police Station, District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Birendra Kumar
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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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 : 03-02-2020

Heard Mr. Birendra Kumar, learned counsel for the petitioner and learned A.C. to S.C.-11 appearing on behalf of the respondents.

The present writ application has been filed for release of Bajaj Discover 125 motorcycle bearing Registration No.BR-06BH-3545, in favour of the petitioner, which has been seized in connection with Pupri P.S. Case No. 315 of 2019 registered for the offences punishable under Sections 272, 273/34 of the Indian Penal code and under Section 30(a) of the Bihar Prohibition and



Excise Act, 2016, as amended by the Amendment Act 8 of 2018 (hereinafter referred to as 'the Act').

The relief, as prayed for in paragraph No.1 of the writ application reads as follows :-

"1. (i) For issuance of an appropriate writ/writs/order/orders/ direction/direction for release of the Icco Sport Car bearing Registration No.BR06BH-3545, Engine No.HG89422, Chasis No.MAJAXXMRKANG89422 in connection with Pupri P.S. Case No.315 of 2019, registered under Section 272/273 and 34 of Indian Penal Code and under Section 30(a) Bihar Prohibition & Excise Act, 2016 pending in the Court of learned A.D.J.-2nd cum-Special Judge (Excise Act) Sitamarhi, which has been sent to the learned Collector-cum-District Magistrate, Sitamarhi for its confiscation.

(ii) for issuance of appropriate writ/writs/direction / directions/ order/ orders for release of vehicle in question in favour of the petitioner on adequate surety on the terms and conditions as laid down by this Hon'ble Court.

(iii) For any other relief/reliefs to which the petitioner may be found entitled in the facts and circumstances of the case."

The prosecution case got initiated on the basis of the written report submitted by Chandra Dev, A.S.I. submitted before S.H.O. Pupri P.S. is to the effect that on 01.08.2019 at 3:30 P.M. during patrolling, the informant received a secret information that liquor is being transported from Jharkhand to Madhubani, consequently, raid was laid and vehicle in question was intercepted in which, three persons were found travelling. From the vehicle in question, 99.750 litres of Indian Made Foreign Liquor were



recovered, leading to registration of Pupri P.S. Case No.315 of 2019.

It is submitted by learned counsel for the petitioner that the petitioner is the registered owner of the vehicle in question and certificate of registration of the same has been brought on record, as Annexure-2 to the writ application. It has further been submitted that confiscation proceeding has been initiated but it has not been concluded till date and the vehicle in question is rotting under open sky.

Learned counsel for the respondent-State submits that the confiscation proceeding being Confiscation Case No.924 of 2019 has been initiated and notices have been issued to the petitioner.

Having heard learned counsel for the parties, it appears that F.I.R. was registered on 01.08.2019, writ application was filed on 06.01.2020 and on the prayer of learned counsel for the State, vide order dated 14.01.2020, the matter was adjourned till 27th January, 2020, in order to enable him to seek instructions and file counter affidavit and thereafter, the confiscation proceeding has been initiated by the respondent authorities which suggests the callous manner in which the quasi judicial proceeding is being conducted by the respondent authorities.



Considering the fact that once the confiscation proceeding is initiated, the exercise of discretionary jurisdiction under Article 226 of the Constitution of India, having self imposed restriction can be exercised only in exceptional or a monstrous situation, such as when fundamental rights have been violated, the impugned order or the proceedings are wholly without jurisdiction or where the principle of natural justice has been grossly violated or vires of the Act is under challenge, which has also been deprecated by the Apex Court in the case of **State of Karnataka Vs. K. Krishnan (2000) 7 Supreme Court Cases 80** and in the case of **State of West Bengal and Ors. Vs. Sujit Kumar Rana, (2004) 4 Supreme Court Cases 129** and a Full Bench of this Court in the case of **Baleshwar Roy Vs. The State of Bihar and Ors , 2018(4) PLJR 970.**

In view of the discussion made above, we are not inclined to direct for release of the vehicle for the present. However, it is expected from respondent No.3, District Magistrate, Sitamarhi to conclude the proceeding of Confiscation Case No.924 of 2019, within a period of six weeks of receipt or production of the 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.

The office is directed to communicate this order to the
District Magistrate, Sitamarhi through email/Fax for its strict
compliance.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.03.2020
Transmission Date	NA

