

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.237 of 2020

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Nitish Kumar S/o Shri Bhushan Sharma Resident of Viiiage- Naugarh
Newari, P.S.-Sakurabad, District-Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Bihar, Patna.
2. The Principal Secretary, Department of Excise and Prohibition, Govt. of Bihar, Patna.
3. The District Magistrate, Gaya.
4. The Superintendent of Police, Gaya.
5. The Station Head Officer, P.S.-Barachatti, District-Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prashant Kashyap, Advocate
For the Respondent/s	:	Mr.Kumar Manish, SC-5
		Mr. Prashant Kumar, AC to SC-5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

2 13-01-2020 Heard Mr. Prashant Kashyap, learned counsel for the

petitioner and Mr. Prashant Kumar, learned AC to SC-5 for the

respondent-State.

The present writ application has been filed for release
of Mahindra Bolero DI 4WD BSIII (Motor car) bearing
Registration No. BR-02V-5574, in favour of petitioner which
has been seized in Excise Case No. 522 of 2019 registered for
the offences punishable under Sections 30(a) and 56(b) of 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 by the petitioner as stipulated in paragraph no.1 of the writ application reads as follows :-

“That the instant application is being filed for issuance of appropriate writ/s thereby commanding and directing the respondents to release the petitioner's vehicle (Motor Car) MAHINDRA BOLERO DI 4WD BSIII bearing Registration No. BR02V5574, Chasis No. MA1PS2GPKD5K69084, Engine No. GPD4K83193 which has been seized in connection with Barachatti P.S. Case No. EX522/2019 registered u/s 30(a) and 56(b) of Bihar Prohibition and Excise (Amendment) Act, 2018 pending in the court of learned Addl. District and Sessions Judge-V Cum Special Judge, Excise, Gaya as petitioner is the registered owner of the said seized vehicle and/or grant any other relief/s for which the petitioner is entitled to in the facts and circumstances of the present case.”

The prosecution case got initiated with filing of the prosecution case by Manoj Kumar Ray, Inspector of Excise, Sherghati, Gaya on the seizure of 81 litres of Indian made foreign liquor on 13.08.2019.

It is submitted by learned counsel for the petitioner that the petitioner claims to be the registered owner of the



vehicle in question. The copy of the registration certificate of the vehicle in question has been brought on record as Annexure-1. The petitioner was not present in vehicle in question and hence, it cannot be said that the recovery has been made from the possession of the petitioner as one Santosh Pandey and Ankit Raj, the driver of the vehicle, were apprehended at the time of seizure.

Confiscation proceeding was not initiated at the time of filing of writ application and statement to that effect has been made in the writ application that confiscation proceeding has not been initiated. A supplementary affidavit has been filed today to the effect that the petitioner has received notice with regard to initiation of Confiscation Case No. 380/2019. Through the said notice the petitioner has been directed to appear and file show cause on 21.01.2020. The said notice has been brought on record as Annexure-3 to the supplementary affidavit.

In the circumstances, it is jointly prayed that this writ application may be disposed of with direction to Respondent No. 3, District Magistrate, Gaya to conclude the confiscation proceeding within a time frame.

In view of the joint prayer of the parties, it is expected from Respondent No. 3, District Magistrate, Gaya to conclude



the proceeding of the Confiscation Case No. 380/2019, arising out of Excise Case No. 522 of 2019 within a period of eight weeks from the date of receipt/production of a copy of this order in accordance with law after giving due opportunity of hearing to all affected persons.

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.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

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