

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6376 of 2021

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Dinesh Kumar S/o Mohan Ray, Resident of Sahila Rampur, P.S - Bochahan,
District - Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Excise and Prohibition Department
Govt. of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Gopalganj, Bihar.
4. The Superintendent of Police, Gopalganj, Bihar.
5. The Superintendent of Excise, Gopalganj, Bihar.
6. The SHO, Gopalganj Police Station, Gopalganj, Bihar.

... .. Respondent/s

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(The proceedings of the Court are being conducted through Video Conferencing and
the Advocates joined the proceedings through Video Conferencing from their
residence.)

Appearance :

For the Petitioner/s : Mr.Sumit Shekhar Pandey, Adv
For the Respondent/s : Mr. Vikash Kumar SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 02-06-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“Issuance of a writ in the nature of the mandamus or
any other appropriate writ/writs, order/orders,
direction/directions directing the respondent authorities to
release four-wheeler Bolero with registration number BR-
09U-1982, Engine No. GHEFL54521, Chassis No.
MA1XA2GHKE5M89563, which belongs to the petitioner
and has been seized in Gopalganj Excise Case No. 208/2020
for the alleged offence u/s 30(a) of the Excise Amendment
Act, 2018 (hereinafter referred as the Excise Act.) ”



It is submitted by learned counsel for the petitioner that no illicit liquor was recovered from the vehicle and same was seized on suspicion only and since seized vehicle was not found to be used in transportation of illicit liquor, as such, same is not liable for confiscation under Section 58 of the Excise Act.

It is submitted by learned counsel for the State that confiscation proceeding has already been initiated against the seized vehicle.

In the facts and circumstances of the case, concerned District Magistrate/Confiscating Authority is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle on production of ownership and registration papers with respect to vehicle in question in his name with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

(i) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.

(ii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when



required.

(iii) Prior to release of the vehicle, a Panchanama would be prepared wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama.

The release shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above, which would however be subject to finalization of the confiscation proceeding.

With said observations, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

