

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7259 of 2021**

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Ajit Yadav, Son of Jobi Mahto, Resident of Village-Budhidih, Police Station and Post Office-Barhi, District- Hazaribagh, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Collector, Nawadah.
4. The Superintendent of Police, Nawadah.
5. The Police Inspector-cum-Thana Incharge, Rajauli, District-Nawadah.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Virendra Prasad, Advocate  
For the Respondent/s : Mr. Vikash Kumar, S.C. 11

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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.)

**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE S. KUMAR**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE S. KUMAR)**

**Date : 10-06-2021**

Heard the parties.

Petitioner has prayed for following relief(s):-

“For issuance of writ in the nature of mandamus direction to the respondent authorities to release the vehicle i.e. Bolero bearing Registration No. JH-02AZ-7123 of the petitioner by which the said



vehicle seized in connection with Rajauli Police Station Case No. 287 of 2020 under Section 30(a) of Bihar Prohibition & Excise Act, 2016, on 04.07.2020 but the vehicle was not used for transportation of liquor. The case of the petitioner may be disposed of the several judicial order passed by this Court.

Allegation is recovery of 1 litre of foreign liquor from the back seat of the vehicle, as such, said vehicle is liable for confiscation under Section 58 of the Excise Act. It is submitted that confiscation case has already been initiated being confiscation case no. 95 of 2020 which is pending.

Petitioner is directed to appear in the court of the Confiscating Officer on 28.06.2021 and file his show cause and Confiscating Officer shall thereafter conclude the confiscation proceeding within 90 days from the date of filing of show cause, and if show cause has already been filed, then conclude the same within 90 days from the date of receipt/production of a copy of this order, failing which District Magistrate, Nawadah shall provisionally release the vehicle of petitioner after due identification of ownership of the vehicle and on production of



ownership and registration documents 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.

Petition stands disposed of with the aforesaid observations/directions.

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

Rajiv/veena-

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

