

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4036 of 2021

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Pramod Mahto Son of Hira Mahto Resident of Village- Suryapur (Bagaha Tola) P.S. Piprakhoti, District East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secreary Excise Department, Patna Bihar.
2. The District Magistrate Cum Collector, Saran at Chapra.
3. The Superintendent of Police, Saran.
4. The Excise Superintendent of Police, Saran.
5. The Excise Officer in Charge, Saran.
6. The Officer in Charge Magrakh P.S. Saran.

... .. Respondent/s

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Appearance :

For the Petitioner/s : Mr.Niranjana Parihar, Adv
For the Respondent/s : Mr.Vikash Kumar (SC11)

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

Date : 05-07-2021

Heard learned counsel for the parties.

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

“For issuance of writ in the nature of mandamus direction and commanding the respondents to release the Maruti Alto vehicle of the petitioner registration no. BR06CC 1382, Engine No. F80N6246084, Chasis no. MA3EUA61S00E94905 in favour of petitioner which has been seized in Masrakh PS Case No. 496 of 2019 on 14.11.2019 registered for the offence under sections 356/382 of the IPC and u/s 30/30(a)/38/41 of Bihar Prohibition and Excise Act, 2016 for recovery of 1.25 insten wine only in



total and respon thirty thousand also.”

Learned counsel for the petitioner submits that 1.25 litre of illicit liquor was recovered from the back seat of the vehicle in question. It is further submitted by learned counsel for the petitioner that no confiscation proceeding has been initiated as yet and statement in this regard has been made in para-7 of his petition.

In view of the above, the writ petition is disposed of with a direction to the **Confiscating Authority/District Collector, Saran at Chapra**, to immediately initiate the confiscation proceeding, if not already initiated, preferably within 15 days from the date of production/receipt of a copy of the order passed by this Court and conclude the confiscation proceeding within 90 days, from the date of filing of show cause failing which, he is directed to provisionally release the vehicle of petitioner after due identification of ownership 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.

So far as cash of Rs. 30,000/- is concerned, as recovered and seized cash is not liable for confiscation under section 56 of the Excise Act, bar of jurisdiction in confiscation under section 60 of the Excise Act is not applicable and the concerned Special Court (Excise) has jurisdiction to pass order for release of cash during pendency of trial.



The writ petition is disposed of with liberty to petitioner to file a petition before the Special Court (Excise) under section 451 of Cr.P.C. and if any such petition is filed for release of cash, the Special Court (Excise) shall dispose of such petition within 30 days from its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

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CAV DATE	
Uploading Date	
Transmission Date	

