

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10934 of 2021

Dev Nandan Yadav son of Rohan Yadav Resident of Village - Sikandra, Near
S.B.I. Bank, Police Station- Sikandra, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Excise,
Govt. of Bihar, Patna.
2. The District Magistrate, Jamui.
3. The Superintendent of Police, Jamui.
4. The Deputy Superintendent of Police, Jamui.
5. The Station House Officer, Sikandra Police Station, Jamui.
6. The Investigating Officer of Sikandra Police Station Case No. 64 of 2019.

... .. Respondent/s

(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. Anil Kumar Singh, Adv
For the Respondent/s	:	Mr. Vivek Prasad GP-07
		Ms. Roona Roona, Adv

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 19-07-2021

Heard parties.

Petitioner has prayed for the following reliefs:-

“That the present writ petition is being filed on behalf of abovenamed petitioner before this Hon'ble High Court for issuance of writ in the nature of mandamus for directing and commanding the respondent authorities to release the vehicle Mahindra XUV-500 bearing Registration No. CH01AS-5015, Chasis No. MA1YL2HJUD6A15165 which has illegally been seized in connection with Sikandra Police Station Case No. 64 of 2019 registered under Sections under 30(a) (g) and 32(2) of Bihar Excise Prohibition and Amendment Act, 2016.”



Learned counsel for the petitioner submits that the son of the petitioner namely Raj Kumar (since deceased) had filed CWJC No. 8697 of 2019 for release of the vehicle in question but during the pendency of the writ petition, he died and on 08.07.2019, following order was passed by a Division Bench of this Court:-

“08.07.2019 Heard learned counsel for the petitioner and learned Counsel for the State

The petitioner prays for provisional release of the vehicle (Mahindra XUV-500) bearing Registration No. CH01AS-5015, Chassis No.MA1YL2HJUD6A15165 which has been seized in connection with Sikandra P.S. Case No. 64 of 2019 for the offences punishable under Section 30(a) and 32(2) of the Bihar Prohibition and Excise Act, 2016.

Mr. Anil Kumar Singh, learned counsel for the petitioner in reference to Annexure-2 submits that the petitioner is purchaser of vehicle and has taken delivery of the vehicle and even no objection has been granted by the Chandigarh administration for transfer of ownership but the ownership is yet to be transferred in his name.

It is stated by learned counsel for the petitioner that confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 387 litres of India made foreign liquor.

Having heard learned counsel for the parties and taking note of the nature of seizure made as well as the fact that the confiscation proceeding is pending, we direct that the vehicle in question be released provisionally in favour of the petitioner on production of papers supporting ownership and registration with respect to the vehicle in question in his name before the District Magistrate, Jamui together with one surety along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety and the bank guarantee or the original title deed, as the case



may be, shall also furnish the following affidavits/undertakings:

(I) That the vehicle in question has never been involved in any offence of similar nature in past and shall not indulge in similar offence in future.

(ii) 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.

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

(iv) Prior to release of the vehicle, a Panchanama would be prepared by the District Magistrate, Jamui wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and the 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 in course of trial.

The release shall be allowed within a period of 14 days from the date of submission of the one surety along with a Bank Guarantee or the original title deed of immovable property situated in the district, as the case may be, to the extent of the value of the vehicle as indicated in the insurance document and the undertakings, as stated above. This release would, however, be subject to finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the confiscating authority subject to final decision in the confiscation proceedings

The writ petition is allowed”

After the death of Raj Kumar (since deceased), his father (petitioner) tried to get the vehicle released but he could not succeed and thereafter petitioner transferred the ownership paper of the vehicle in question in his own name and as such is now the owner of the vehicle in question.



Allegation is of recovery of 387 litre of illicit liquor from the vehicle in question i.e. Mahindra XUV-500. It is submitted on behalf of petitioner that although confiscation proceeding has been initiated but same has not been concluded as yet.

The writ petition is disposed of with a direction to the **District Collector/Confiscating Officer, Jamui** to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle and on production of ownership and registration 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 observation and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

