

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11811 of 2021

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Rajan Kumar Son of Shyam Sundar Arya, Resident of Village-Fatehpur, Ward No.11, P.S.-Gogri, District-Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The Commissioner, Excise, Bihar, Patna.
3. The District Magistrate-Cum-Collector, Khagaria.
4. The Superintendent of Police, Khagaria.
5. The Deputy Superintendent of Police, Khagaria.
6. The Officer-in-Charge, Police Station-Pasraha, District-Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Roshan Kumar Mishra, Advocate
For the Respondent/s : Mr. Vivek Prasad, G.P. 7

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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 : 20-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for following relief(s):-

- (i) “To issue a writ in the nature of certiorary for setting aside the order dated 19.01.2021 passed by the Excise Commissioner, Bihar, Patna in Excise Appeal Case No. 222/2020 by which the appeal preferred by the petitioner U/s 92(2) of the Bihar Prohibition & Excise Act, 2016 against the order dated 04.09.2020 passed by the Collector-cum-District Magistrate, Khagaria in Excise Confiscation Case No. 62/2019-20, arising out of Pasraha P.S. Case No. 40 of 2019,



corresponding to the G.R. No. 720 of 2019, registered under Section 30(a)/38(1) of Bihar Prohibition and Excise Act, 2016 and Section 25(1-b)a, 26/35 Arms Act, whereby and where under the vehicle of the petitioner namely Hundai Car bearing registration No. BR09Z-8287 has been confiscated and directed the concerned authority for selling it by public auction U/s 58(5) of the said Act and proceeds be deposited with the State Government, has illegally been dismissed and order passed by the Respondent District Magistrate has been affirmed.

(ii) To issue a further writ of certiorary, setting aside the order dated 04.09.2020 passed by the Collector-cum-District Magistrate, Khagaria in Excise Confiscation Case No. 62/2019-20.

(iii) To issue a writ of mandamus, commanding and directing the respondent authority concerned to release the aforesaid vehicle i.e. Hundai Car bearing Registration No. BR09Z-8287 in favour of the petitioner who is bonafide owner of the vehicle in question forthwith.

(iv) Any other relief or reliefs, writ or writs direction or directions which this Hon'ble Court may deem fit and proper in the facts and circumstances may also be granted."

Petitioner has approached this Court without availing the statutory remedy of revision against the impugned appellate order, as such, liberty is granted to petitioner to file revision against the appellate order before the Revisional Authority and if any such Revision is filed within 8 weeks, then Revisional Authority shall condone the delay in filing the revision petition and shall decide the revision petition preferably within 8 weeks



from the date of its filing on its own merit.

During pendency of revision petition, confiscated vehicle shall not be auction sold, if not auction sold.

With aforesaid liberty, the writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

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

