

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12597 of 2021

Subodh Kumar Ray @ Subodh Ray @ Subodh Roy, son of Bhagwan Ray @ Bhagwan Roy, resident of Village- English, Farka, P.S. Sabour, District- Bhagalpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
2. The Principle Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
3. The District Magistrate, Bhagalpur.
4. The Superintendent of Police Bhagalpur.
5. The S.H.O. Sanokhar (Amdanda), Police Station, Bhagalpur.
6. The Investigating Officer, Sanokhar (Amdanda), Police Station, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP-7)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

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

Date : 27-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“(i) For issuance of writ in the nature of mandamus of any other appropriate writ for directing the respondents to release the Tata 709E Bus bearing registration no. BR10P0042, Engine No. 497TC85KZZ774054, Chasis No. 386221 LZZ719200 of the same has been seized in connection with Sanokhar (Amdanda) P.S. Case No. 101/21 dated 27.06.21 registered for the offence under sections 30 (a), 32 (2), (g) of Bihar Prohibition and Excise Act, 2016, 2018. It is alleged that total 190.5 litres foreign liquor has

been recovered from the Bus (Taxi number).

(ii) For issuance of any other appropriate, writ, order or direction which your lordships may deem fit and proper in the facts and circumstances of the case.

It is submitted that 190.5 liters of illicit liquor was recovered from the roof of the passenger bus which was carrying by one person who was passenger of the said bus and the petitioner is owner of the bus, as such, seized passenger bus is not liable for confiscation under Section 58 of the Excise Act.

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)

Rajiv/veena-

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