

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13383 of 2021

=====

Sameer Narayan Bandekar @ Sameer N Bandekar Authorized Transport Contractor of Mahindra @ Mahindra Ltd. for transporting the vehicle, Son of Narayan Bandekar, Resident of 701, Padma Prabhu Apartment, Near Kirti College, Dadar, Police Station- Dadar, District- Mumbai (Maharashtra).

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary of Excise Department, Bihar at Patna.
2. The Collector-cum- District Magistrate, Siwan.
3. The Superintendent of Police, Siwan.
4. S.H.O., Guthani P.S., District- Siwan.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Raj Kumar, Advocate
For the Respondent/s : Mr.Vivek Prasad (Gp7)

=====

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 : 30-07-2021

Heard learned counsel for the petitioner and learned

counsel for the State.

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

“(i) For direction to release the “Bolero Camper” bearing Chassis No.MA1RU4TBKM3B82547 and Engine No.TBM4A81552 (brand new vehicle without registration number), which was seized in Guthani P.S. case No. 37 of 2021 for the offence punishable u/s 279, 427, of the I.P.C. & Sec. 30(a)/37(c) of Bihar Prohibition and Excise Act, 2016 dated 15.02.2021 to respondent no.2, in favour of the petitioner.

II. Also for any other relief/reliefs for which the petitioner is entitled in the eye of law.”

It is submitted on behalf of counsel for the petitioner that petitioner is owner of Narayan Auto Works who is authorized contractor for transporting the vehicle of Mahindra and Mahindra for International operation and during transit one Bolero camper vehicle as detailed above for delivery to M/s Agni Incorporated, Nepal met with an accident while passing through State of Bihar and it is alleged that driver of the vehicle was found in drunken condition and from the seat of driver of aforesaid vehicle, 200 ml. of country made liquor was recovered giving rise to Guthani P.S. case No. 37 of 2021 for the offence punishable u/s 279, 427, of the I.P.C. and Sections 30(a)/37(c) of Bihar Prohibition and Excise Act, 2016 and the driver was apprehended and vehicle was seized under the provisions of Excise Act.

The vehicle is a brand new vehicle which was being transported from manufacturing company of Mahindra and Mahindra Ltd. to Agni Incorporated Pvt. Ltd. Nepal through the petitioner who is authorized transport contractor for transporting of vehicle.

In facts and circumstances of the present case, the writ petition is disposed of with a direction to the concerned

Confiscating Authority/District Collector, 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.

With said observations and direction, this writ
petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.07.2021
Transmission Date	NA