

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16093 of 2021

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Dharmendra Kumar Son of Shyam Narayan Yadav Resident of Village- Kurji
Kothiya, P.S.- Digha, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The District Magistrate-cum- Collector, Nawada.
5. The Superintendent of Police, Nawada.
6. The Excise Inspector, Rajauli, District- Nawada.
7. The Investigating Officer, (Rajauli) G.O. No. 315 of 2020, District- Nawada.

... .. 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.Sanjeev Nikesh, Adv
For the Respondent/s : Mr.Kumar Manish (SC5)

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

Date : 21-09-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief:-

“Releasing the Maruti Swift ZXI car bearing
Registration No. BR10DL 4517, Engine No.
K12MN2066615, Chassis No. MA3EKHD1S00D59802
seized in connection with (Rajauli) G.o. No. 315 of 2020
dated 22.12.2020 registered under section 30(a), 56(b), 37(b)
of the Bihar Prohibition & Excise Act, 2016, awaiting
confiscation.”

Informant is excise official who in his report has alleged that on 22.12.2020 during vehicle checking beneath the seat of driver a Can Beer sealed containing 500 ml of Beer was recovered and three occupants in the Swift Dzire car were found in drunken condition, as such all the four were apprehended and the vehicle was seized under the provision of Excise Act.

Petitioner who claims to be the owner of the vehicle has alleged that nothing was recovered from his vehicle and no recovery was made from his car.

It is not in dispute that the Government had not framed any rule/regulation, as is mandated under the provisions of the Bihar Prohibition and Excise Act.

In such view of the matter, the **District Magistrate/Confiscating Authority, Nawada**, is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle on production of ownership/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 and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.10.2021
Transmission Date	NA