

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2077 of 2021

=====

Vinod Singh @ Binod Kumar Singh Son of Ramavadan Singh Resident of
Village- Karagahar, P.S.- Karagahar, District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary of the Excise Department, Bihar at Patna.
2. The Collector cum District Magistrate, Banka.
3. The Superintendent of Police, Banka.
4. The Officer in-charge of Police Station, Bounsi, District- Bounsi.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Rajani Kant Pandey, Adv
For the Respondent/s : Mr. Kumar Manish SC-5

=====

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

Date : 26-03-2021

Heard learned counsel for the parties.

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

“To issue an appropriate writ, order or directions including a writ in the nature of mandamus commanding the respondents to release the seized pickup van bearing registration number **BR 45G 1364** of the petitioner which has been seized in connection with **Bounsi P.S. Case No. 71 of 2020** during pendency of the finalization of the confiscation proceedings before the learned District Magistrate, Banka, or pendency of the criminal case before the trial court.”

It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was stolen by unknown thieves on 29.10.2018 for which he has lodged FIR giving rise



to Karagahar P.S Case No. 406 of 2018 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor and 608 litres of illicit liquor was recovered by the police from said stolen Pick Up Van giving rise to Bausi P.S. Case No. 71 of 2020 dated 21.03.2020 for the offence punishable under Section 414 of IPC and section 30(a) of the Bihar Prohibition and Excise Act, 2016.

Petitioner claims to be owner of the seized vehicle and same was stolen on 29.10.2018 for which he had earlier instituted a case as such, petitioner cannot be held to be responsible for transportation of illicit liquor, however, since the vehicle was used for transportation of illicit liquor same is liable for confiscation and confiscation proceeding has been initiated by the District Collector, Banka.

The application of petitioner filed before the Special Court (Excise), Banka, for release of his seized vehicle was rightly rejected by the Special Court (Excise), Banka, by order dated 12.10.2020 as contained in Annexure-4, as confiscation proceeding was initiated against the seized vehicle as such in view of Section 60 of the Excise Act, jurisdiction of courts with respect to articles which are liable for confiscation is barred.



In the facts and circumstances of the case, **the District Magistrate/Confiscating Officer, Banka** is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was stolen and subsequently recovered and seized by the police in excise case 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 and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.04.2021
Transmission Date	NA

