

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16359 of 2021

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Chhotu Banavasi Son of Laljee, Resident of village Dhanapur, Post - Bahari,
P.S.- Bahari, District - Sant Ravidas Nagar (U.P)

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary of the Excise Department, Bihar at Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Kaimur at Bhabua.
4. The Superintendent of Police, Kaimur at Bhabua.
5. The Superintendent of Excise, Kaimur at Bhabua.
6. The Investigating officer of Police Station Durgawati, District - Kaimur at Bhabua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajani Kant Pandey, Adv
For the Respondent/s : Mr.Lalit Kishore (AG)

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

Date : 03-12-2021

Heard learned counsel for the parties.

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

“(i) To issue an appropriate writ, order or directions including a writ in the nature of mandamus commanding the respondents to release the seized vehicle bearing its Registration No. UP64H4517, Chasis No. MAT42603198N20904, Engine No. 30C62261564, (Truck), arising out of Durgawati P.S. Case No. 139 of 2021 relates to the petitioner which is seized without proper reason.”

Allegation is recovery of 360 ml of illicit foreign liquor contained in 2 bottles 180 ml each from the cabin of Truck

giving rise to Durgawati PS Case No. 139 of 2021 dated 25.06.2021 under sections 30(a) of the Bihar Prohibition and Excise Act, 2018.

Petitioner claims to be the owner of the truck and same is a commercial vehicle used for transportation of goods which petitioner has purchased on loan to earn his livelihood and it is submitted that two alleged bottles each containing 180 ml of illicit liquor was recovered from cabin of the Truck and may be kept for personal consumption of Driver which was not within the knowledge of petitioner as such allegation that seized Truck was being used for transportation of illicit liquor cannot be true.

In the facts and circumstances of the case, the **District Magistrate/Confiscating officer Kaimur at Bhabua** is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was 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	
Transmission Date	NA