

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16591 of 2021

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Ashfaque Alam Son of Jasimuddin Resident of Village- Mauja Bari, Day Market, P.S. Kochadhaman, District Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Prohibition Excise and Registration Department, Government of Bihar Patna.
2. The Principal Secretary, Prohibition Excise and Registration Department, Govt. of Bihar Patna.
3. The District Magistrate, Kishanganj.
4. The Superintendent of Police, Kishanganj.
5. The Officer Incharge Bahadurganj, P.S. Bahadurganj, District Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Radha Mohan Singh, Advocate
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 : 03-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

“(i) For issuance of writ in the nature of

mandamus or any other appropriate writ for

commanding the respondent for release of Alto

Car vide registration No.BR11AG-9618, Engine

No.F8DN6351161, Chassis

No.MA3EUA61500G03559. During pendency

of the confiscation proceeding as the same has

been seized in connection with Bahadurganj P.S.

Case No. 50 of 2021 (Special Case No.72 of 2021) dated 20.02.2021 registered for the offences punishable under Section 30(a) of Bihar Prohibition & Excise Act, 2016.

(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.”

Allegation is recovery of 1 litre 500 ml. of illicit liquor from the seized alto car giving rise to Bahadurganj P.S. Case No. 50 of 2021 (Special Case No.72 of 2021) dated 20.02.2021 under sections 30(a) of the Bihar Prohibition and Excise Act, 2016.

Petitioner claims to be the owner of the seized car and said car was not being driven by the petitioner rather one Nakki Anwar was driving the car. It is further submitted that only 1 litre 500 ml. illicit liquor was recovered and petitioner was not aware that said illicit liquor was kept in his car. It is further submitted that confiscation proceeding has not been initiated as yet.

In the facts and circumstances of the case, the **District Magistrate/Confiscating officer Kishanganj** is directed to

initiate confiscation proceeding, if not already initiated, and 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)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2021
Transmission Date	NA