

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16702 of 2021

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Rahul Kumar, Son of Yogendra Das, resident of Village-Lavapur, P.S. Mahnar, District-Vaishali at present resident of Mohalla-129 Mahul Sai Mission Compound Chaibasa, P.S.-Sadar Chaibasa, District-West Singhbhum, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Registration, Excise and Prohibition Department, Government of Bihar.
2. The District Magistrate cum Collector, Vaishali at Hajipur.
3. The Assistant Excise Commissioner, Vaishali at Hajipur.
4. The Superintendent of Police, Vaishali at Hajipur.
5. The Superintendent of Police Excise Vaishali at Hajipur.
6. The Station House Officer, Dasri (Sahdai O.P.) Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Singh
For the Respondent/s	:	Mr.Vikash Kumar (Sc11)

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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 reliefs:-

“(i) For issuance of direction to release the vehicle Swift Car bearing Registration No.JH05BG-7749, Engine No. K12MN1644570, Chassis No.MA3EHKD1500946577 in favour of petitioner and entitle of possession.

(ii) For issuance of such other writ rule order and directions which may deem fit and proper.”

It is submitted on behalf of the learned counsel for the petitioner that petitioner is owner of the seized vehicle from which 750 Ml. Foreign liquor is alleged to have been recovered.

It is further submitted that confiscation proceeding has not been initiated as yet.

It is further submitted that petitioner had no knowledge about illicit liquor being kept in his car and same was recovered from the backseat of the vehicle and five accused persons were present in the car who were arrested.

In the facts and circumstances of the case, the **concerned District Magistrate/Confiscating officer Vaishali at Hajipur** is directed to initiate the confiscation proceeding, if yet not 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