

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2111 of 2021

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Rahamat Ali s/o- Akher Ali Mistri R/o - Algaria, Dist.- Noth 24 Paraganas,
P.S. Noapara, West Bengal.

... .. Petitioner/s

Versus

1. The State of Bihar, through Secretary Department of Excise, Bihar, Patna.
2. The District Magistrate, Purnia.
3. the Superintendent of Police, Purnia.
4. The S.H.O., Baisi, Purnia.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar, Adv
For the Respondent/s : Mr. Vivek Prasad GP-7

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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 following relief:-

“(i)That the present writ application is being filed in the nature of *Certiorari* for setting aside the order dated 13.03.2020.” passed in Excise Case No. 09/2020 by the District Collector, Purnia in which the District Collector, Purnia has rejected the prayer for release of the vehicle in favour of the petitioner.

(ii)That the present writ application is being filed in the nature of *Mandamus* for directing and commanding the respondent authorities to release the Truck bearing Registration No. WB 25H-5523, Chassis NO. MBIA29D3HRGR8051 and Engine No. GTH2438878 in favour of the petitioner which has been seized in connection with Baisi P.S. Case No. 238 of 2019 registered on 05.10.2019 under sections 272 and 273 of IPC and Section 30(a), 33, 41, 47 of Bihar Prohibition and Excise Act, 2016.

(iii) That the present writ application is being filed in



the nature of Mandamus for directing and commanding the respondent authorities to release the Truck in the favour of the petitioner on the ground that the petitioner are the owner of the said vehicle and same is lying under open sky in the police station as nobody is there to take care of the vehicle.”

Petitioner has approached this Court without exhausting the statutory remedy of appeal against the impugned order, as such, petitioner is granted liberty to avail the remedy of appeal against the confiscation order passed by the Confiscating Authority- cum- District Magistrate, before the Appellate Authority and if any such appeal is filed within 4 weeks then appellate authority shall condone the delay in filing the appeal and shall decide the appeal on its own merit preferably within 8 weeks from the date of its filing.

During pendency of appeal, the confiscated vehicle shall not be auction sold, if not already auction sold.

With aforesaid liberty, the 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

