

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17107 of 2021

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Ashok Kumar Keshote S/o Anand Kishore Keshote Resident of 317, Vijay Path, Tilak Nagar, P.S.- Adarsh Nagar, District- Jaipur, Rajasthan

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Excise and Prohibition Department Gov. of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Gopalganj, Bihar
4. The Superintendent of Police, Gopalganj, Bihar
5. The Superintendent of Excise, Gopalganj, Bihar
6. The SHO, Gopalganj Police Station, Gopalganj, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sumit Shekhar Pandey, 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)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 10-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

“(i) Issuance of a writ in the nature of the mandamus or any other appropriate writ / writs, order / orders, direction / directions directing the respondent authorities to release the bus with registration number UP-78FT-3333, Engine No.KGEZ406265, Chassis No.MB1PREHD3KAGK1914 which belongs to the petitioner and has been seized in Kuchaikot P.S. Case No. 336/2021 for the alleged offences u/s 30(a) of the Excise Amendment Act, 2018 (hereinafter referred as the Excise Act)

(ii) For any other order / orders and relief / reliefs for which the petitioner may be entitled in the eyes of law.”

Informant is the police officer who has alleged in the FIR that during checking of the vehicles, coming from Uttar Pradesh, the bus having registration number UP-78FT-3333 was signalled to stop and three employees of the bus tried to flee away but were apprehended, who were bus driver, co-driver and conductor and on search, 247.680 litre illicit liquor was recovered from dickey of bus and accused disclosed that same was loaded at Kalpna Transport, Railway Station Road, Jaipur and was to be delivered to a person having specific mobile number which gave rise to Kuchaikot P.S. Case No. 336/2021 for the offences u/s 30(a) of the Excise Amendment Act, 2018 and illicit liquor and bus were seized and the three employees of the bus were apprehended.

Petitioner claims to be Director of M/s Kalpana Transport Private Limited which is a registered company and runs business of bus transport having All India Permit and seized bus is also one of the buses of the company and petitioner had no knowledge that on his bus, illicit liquor was being carried which was seized by the police. The connivance, if any, could have been of his employees, who have already been arrested and facing criminal prosecution. Seized bus is used for

carrying passengers having All India Permit and purchased on loan for which, instalments are being paid to the loanee Bank.

In the facts and circumstances of the present case, the District Magistrate / Confiscating Authority, Gopalganj is directed to initiate confiscating proceeding forthwith and shall provisionally release the bus in favour of its owner on production of ownership and registration documents and upon furnishing bank guarantee of the value of insured amount of the bus.

The petitioner while submitting the bank guarantee 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 bank guarantee 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	19.12.2021
Transmission Date	NA