

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17191 of 2021

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Rajiv Kumar Singh S/o Surendra Singh, Resident of RohuaMan, P.S.-
Madhuban, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department Government of Bihar, Patna.
2. The Principal Secretary, Excise Department Government of Bihar Patna.
3. The District Magistrate- cum-Collector, Muzaffarpur.
4. The Senior Superintendent of Police, Muzaffarpur.
5. The SHO Police Station Siwaipati, District - Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Bihari 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 : 10-12-2021

Heard learned counsel for the parties.
Petitioner has prayed for following reliefs:

“(i) To release the Mahindra Bolero of the petitioner, which was wrongly seized by the Siwaipati Police in connection arising out of Siwaipati Case No.65/21, registered u/s30(a), 37(c) of Bihar Prohibition Excise Act, 2018.

(ii) For any other appropriate relief/reliefs to which the petitioner is found entitled in the facts and circumstances of the present case.”

Allegation is recovery of 360 ml. of illicit liquor from the seized car and five occupants in the vehicle were found in drunken condition giving rise to Siwaipati PS Case No. 65

of 21 under sections 30(a), 37(c) of the Bihar Prohibition and Excise Act, 2018.

Petitioner claims to be the owner of the said vehicle and only 360 ml. illicit liquor has been recovered. It is further submitted that petitioner had no knowledge about illicit liquor being kept in his car. It is further submitted that no confiscation proceeding has been initiated till date.

In the facts and circumstances of the case, the **concerned District Magistrate/Confiscating officer, Muzaffarpur** 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