

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17120 of 2021

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Ashok Rai @ Ashok Kumar Ray son of Late Teki Rai resident of Muchrobad,
Police Station- Hirodih, District- Giridih (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna.
2. The District Magistrate, Bhagalpur.
3. The Excise Commissioner, Bihar, Patna.
4. The Senior Superintendent of Police, Bhagalpur.
5. The Deputy Collector Land Reforms, Sadar, Bhagalpur.
6. The S.H.O. Bath Police Station, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Manoj Kumar, Advocate
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)

**(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 relief:-

“For issuance of an appropriate writ/writs, order/orders,
direction/directions in the nature of writ of mandamus
commanding upon the concerned respondents particularly
respondent no.6, the S.H.O. Bath Police Station to release the
Red Colour Hundai Car bearing Registration No.OD-17E-2101,
Engine No.G4HGF878800 in favour of the petitioner (owner

of the vehicle) which has been seized in connection with Bath P.S. Case No. 68/2020 dated 27.12.2020 registered under Section 30(A) of Bihar Prohibition and Excise Act, 2016.”

Allegation is recovery of 375 ml of illicit liquor from the seized car giving rise to Bath PS Case No. 68 of 2020 under sections 30(a) of the Bihar Prohibition and Excise Act, 2016.

Petitioner claims to be the owner of the seized vehicle and only 375 ml. illicit liquor is alleged to have been recovered kept below the seat. It is further submitted that petitioner was returning from Ganga Ghat along with 4 relatives after cremation of his father and meanwhile, one bottle of foreign liquor was kept in his car by mischievous persons. Petitioner has been falsely framed in this case as the bottle recovered was sealed.

It is further submitted that confiscation proceeding being Miscellaneous (confiscation) case no.60/21-22 has been initiated against the seized vehicle pending in the court of DCLR, Sadar Bhagalpur.

In the facts and circumstances of the case, the **concerned District Magistrate/Confiscating officer, Bhagalpur** is directed to 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	
CAV DATE	
Uploading Date	13.12.2021
Transmission Date	