

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17255 of 2021

=====

Premlata, Wife of Pawan Jha, Resident of Mohalla- Bari Khanjarpur, Police Station- Barari, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The Collector-cum-District Magistrate, Bhagalpur.
4. The Superintendent of Police, Bhagalpur.
5. The Officer-in-Charge, Mojadhipur Police Station, Bhagalpur.
6. The Investigating Officer, Mojahidpur P.S. Case No. 339 of 2019.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Praveen Kumar, Advocate
For the Respondent/s : Mr.Lalit Kishore (A.G.)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 17-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“That, the present writ application is being filed for the release of seized car of the petitioner bearing Registration No. JH 15U 4715 (Red Colour, make Renault Kwid RXL) seized in connection with Mojahidpur P.S. Case No. 339 of 2019, registered for the offences under Sections 30(a), 32(2) and 30(g) Bihar Prohibition and Excise Act, 2016. It is further prayed that the present application may be allowed with cost and cost of litigation.”

Petitioner claims to be the owner of the seized car

and said car was not being driven by her rather one Nishikant Ambasta was driving her car and no illicit liquor was recovered from the vehicle. It is further submitted that alleged recovery was made from another car, which does not belong to petitioner. It is further submitted that confiscation proceeding has not been initiated although car was seized on 03.12.2019.

In the facts and circumstances of the case, District Magistrate/Confiscating Authority, Bhagalpur is directed to initiate confiscation proceeding, if yet not initiated and provisionally release the vehicle of petitioner after due identification of ownership of the vehicle on production of ownership and registration papers with respect to vehicle in question in her 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, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	