

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17404 of 2021

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Rajesh Kumar Son of Ram Prasad Resident of Ward No-1, Navin Nagar,
Nawada, P.S.-Nawada, District-Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-Cum-Collector, Nawada.
3. The Superintendent of Police, Nawada.
4. The Station House Officer, Akbarpur Police Station, District-Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Advocate
For the Respondent/s : Mr. Vivek Prasad (Gp7)

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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 relief:-

“For issuance of appropriate writ in the nature of mandamus or any writ/writs, order/orders commanding the respondents to release the TATA STARBUS bearing Registration Number BR27P-1436, Engine No.4SPCR11DRY623944, (wrongly recorded as 2534D11 50324 in the F.I.R. as well as in the seizure list), Chassis No. MAT5133DIJFEO8584, which has been seized in connection with Akbarpur P.S. Case No.588/2021 dated 13/09/2021 for offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.”

Informant is the police officer who has alleged in the

FIR that he received a secret information on 13.09.2021 that one

person is carrying illicit liquor on a bus bearing registration No. BR27P-1436 and, thereafter, informant along with other police personnel reached said place and started checking the vehicles and from the bus, in question, on search, 37.4500 litre of country made liquor was recovered from one passenger Ghori Mahto, who was arrested, who further disclosed that the bus conductor, driver and co-driver were also involved in commission of the offence and, accordingly, the bus and illicit liquor were seized and all four persons were arrested giving rise to Akbarpur P.S. Case No.588/2021 dated 13/09/2021 for offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

Petitioner claims to be registered owner of the seized bus and further states that aforesaid vehicle of petitioner runs as a public transport vehicle and a permit in this regard has been issued by RTO, Gaya to ply on route no.1410 from Mahugai to Nawada via Rajouli.

It is further submitted that one passenger Dhori Mahto carried about 37 litres of illicit liquor stealthily in the bus for which petitioner cannot be held responsible and same was being carried by the accused passenger of which petitioner had no knowledge or information.

In the facts and circumstances of the present case, the District Magistrate / Confiscating Authority, Nawada 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)

Rajiv/-Veena

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	