

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18115 of 2021

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Nawal Ray, Son of Bhagwan Rai @ Bhagwat Rai, Resident of Village-
Bishunpur Kalyan, P.S. Sahebganj, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretry, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-Cum-Collector, Muzaffarpur, District-Muzaffarpur.
3. The Superintendent of Police, Muzaffarpur, District-Muzaffarpur.
4. The Station Head Officer, Paroo Police Station, District-Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Ranjan, Advocate
For the Respondent/s : Mr.Kumar Manish (SC-5)

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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 the following relief(s).

“ (I) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and the Respondent District Magistrate, Muzaffarpur (Respondent no.2) to conclude the proceeding of Confiscation Case No.178 of 2019-20 on the ground that the confiscation proceeding is pending since last two sears for no reason whatsoever.

(ii) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and Commanding and directing the Respondent Authorities to release the Scorpio Vehicle of the petitioner bearing Reg. No. MN-06L-3609, Chassis No.42J80840 and Engine No. BD44J52080

in favour of the petitioner which has been illegally seized by the Respondent No.4 in connection with Paroo P.S. Case No.383 of 2019 dated 19.09.2019 registered for the offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 on the ground that in fact there is no recovery of liquor from the vehicle in question as also it is kept in the open sky of the campus of the Police Station which causes fast natural decay of the vehicle of the 'petitioner.

(iii) For the issuance any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

Allegation is recovery of 375 ml. of illicit liquor from the Scorpio and driver fled away from the vehicle.

It is submitted that petitioner is owner of the vehicle and he had no knowledge that 375 ml. illicit liquor was kept in his vehicle which driver of the vehicle was consuming.

In the facts and circumstances of the case, concerned District Magistrate/Confiscating Authority is directed to provisionally release the vehicle of petitioner in Confiscation Case No.178 of 2019-20 after due identification of ownership of the vehicle 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, this writ petition is disposed
of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA