

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4210 of 2021

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Neeraj Kumar Son of Satya Narayan Singh Resident of Infront of Gate No. 29
Rajapur, P.O.- G.P.O., P.S.- Krishnapuri, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Superintendent of Police, Patna.
4. The Sub Divisional Police Officer, Patna.
5. The Station House Officer, Patna, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kalyan Shankar, Advocate
For the Respondent/s : Mr. Vivek Prasa

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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 : 25-05-2021

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

(I) For issuance of an appropriate writ in the nature of
mandamus directing the release of petitioner's vehicle / auto whose
registration no.BR-01PF-1601, Excise Case No. arising out of Sonbarsa
P.S. Case No. 239/17 dated 27.9.17 registered under Sections 272/273 of
Indian Penal Code and Section 30(a) of the Bihar Prohibition & Excise
Act.

(ii) Issuance of writ in the nature of certiorari, setting aside the



action of illegally seizure of aforesaid auto of the petitioner by the police.

(iii) Issuance of the writ in the nature of certiorari holding that the District Magistrate, Sitamarhi does not have jurisdiction to initiate and hold the vehicle of the petitioner is subject matter to confiscation under the Bihar Prohibition and excise Act, 2016 while the criminal case is pending before the judicial forum.

(iv) Any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of the case.”

It is submitted on behalf of counsel for the petitioner that his auto bearing registration no.BR 01 PF 1601 was stolen on 20.9.2017 for which FIR was instituted giving rise to S.K.Puri P.S. Case no.259 of 17. It is further submitted that his stolen vehicle was being misused by the miscreants in transportation of illicit liquor and same was apprehended by the police and from the stolen vehicle of petitioner, illicit liquor was recovered and vehicle was seized giving rise to Sonbarsa P.S. Case No.259 /2017 dated 27.9.2017 under Section 30(a) of Bihar Prohibition and Excise Act.

It is submitted on behalf of State that Confiscation Case No.539 of 2017 has been initiated against the seized vehicle and final order of confiscation has been passed on 8.12.2017. It is submitted on behalf of petitioner that he had no notice of confiscation case being initiated against his stolen vehicle and final order has been passed without any intimation



to him although he is the registered owner of the vehicle.

The writ petition is disposed of with liberty to petitioner to file a recall petition before the District Collector-Cum-Confiscating authority, Sitamarhi in confiscation case no.539 of 2017 in which final order has been passed on 8.12.2017 and if the confiscating authority comes to a finding that no notice was ever served upon the registered owner of the vehicle and final order was passed in his absence the confiscating authority shall recall the order and pass a fresh order after hearing all the concerned parties.

It shall be open for the petitioner to plead before the confiscating authority that his vehicle was misused by the miscreants in trade of illicit liquor after stealing his vehicle for which petitioner had already instituted a case of theft, as such, his vehicle is not liable for confiscation and same may be released in his favour.

It is made clear that if the vehicle has been auctioned sold and a third party right has been created then notice has to be issued to him and opportunity of hearing to be provided before passing final order.

With aforesaid observation, this writ petition stands



disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

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

