

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18546 of 2021

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Renu Devi W/o Ram Chandra Mahto Resident of Mohalla- Ambedkar Path,
Basant Vihar Colony, near Shymal Hospital, P.S.- Rajeev Nagar, District-
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Patna.
2. The District Magistrate, Cum Collector, Patna.
3. The Excise Commissioner cum Appellate Authority, Bihar, Patna.
4. The District Transport Officer, Patna.
5. The Senior Superintendent of Police, Patna.
6. The S.H.O. of Rupaspur Police Station District Patna.
7. The Investigating Officer in Connection with Rupaspur P.S. Case No. 444/2021, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh, Advocate
For the Respondent/s : Mr. Vivek Prasad (G.P. 7)

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

Date : 23-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

- (i) For issuance of writ/writs, order/orders, direction/directions in the nature of mandamus commanding the respondents to immediately release the vehicle of the petitioner bearing DIO Scooty Reg. No. BRO1 EA 8565 which was seized by the police in connection with Rupaspur P.S. Case No. 444/2021 dated

30.08.2021 under Section 30(A) Bihar Prohibition and Excise Act, 2018. (it) For further prayed for direction upon the respondents particular the respondent No.2 the District Magistrate cum Collector, Patna as well as the District Excise Officer, Patna not evidence the proceeding for confiscate the seized vehicle for auction during the pendency of the writ petition, because the said vehicle bearing Reg. No. BRO1 EA 8565 has been kept laying in the premises of Rupaspur Police Station.

(iii) For further any other relief/reliefs, order/orders, direction/directions may deem fit and proper in the fact and circumstances of this case.

Petitioner claims to be the owner of the seized car and said car was not being driven by her rather it was driven by her son, while her son had gone to the market for purchase medicine and in the meantime his friend Avinash Kumar took his scooty for urgent work and 750 ml. illicit liquor was recovered from the vehicle of petitioner and petitioner was not aware that said illicit liquor was kept in her vehicle. It is further submitted that confiscation proceeding has not been initiated as yet.

In the facts and circumstances of the case, concerned

District Magistrate/Confiscating Authority is directed to 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 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	
CAV DATE	
Uploading Date	
Transmission Date	