

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18418 of 2021

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Kuldeep Jaiswal @ Kuldeep Kumar Jaiswal Son of Late Rajkumar Jaiswal
Resident of Village- Suriyawan, Police Station- Suriyawan, District- Badoi
(U.P.).

... .. Petitioner/s

Versus

1. The State of Bihar Through Secretary of Excise Department, Bihar at Patna.
2. The Collector-cum- District Magistrate Kaimur.
3. The Superintendent of Police Kaimur.
4. The Excise Superintendent of Police Kaimur.
5. S.H.O., Mohaniya, P.S. District- Kaimur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vijay Kumar, Advocate
For the Respondent/s : Mr.Vikash Kumar (S.C.11)

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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 direction to the State Respondents to release the "Hundai Car" of the petitioner bearing Registration No. UP-66V-4050, which was seized in Mohaniya P.S. Case No. 439 of 2021 for the offence punishable U/s - 30 (a) of Bihar Prohibition and Excise Act, 2016 dated 26.09.2021, especially to respondent No.2, in favour of the petitioner..
- II. Also for any other relief/reliefs for which the petitioner is entitled in the eye of law.

Petitioner claims to be the owner of the seized car.

Allegation is recovery of 1.875 litres of illicit liquor from the car of the petitioner which was kept back of the seat of driver.

It is submitted that no illicit liquor was recovered from the vehicle, as such seized vehicle is not liable for confiscation. 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	