

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18771 of 2021

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Leyakat Ali @ Liyakat Ali, S/O Mohammad Rustam, R/O village -
Khodaibagh, P.O. - Khodaibagh, P.S. - Khairah, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The District Magistrate, Saran, Bihar.
3. The Superintendent of Police, Saran, Bihar.
4. Nawal Kishore Singh, Sub - Inspector, Daudpur Police Station, District-
Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vishal Saurabh, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP-7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

1. That this is an application for issuance of writ or writs in the nature of certiorari quashing the order dated 23-09-21 passed by 2nd Additional Session Judge-cum- Special Judge (Excise), Saran whereby and where under the learned court below rejected the application filed by the petitioner for release of vehicle having model no. Scorpio of Mahendra & Mahendra Company having its registration no. BR-04Q-8819, Chasis No- MAITA2TDKG2A16296, Engine No- TDG4A78027 which was seized by the police in connection with Daudpur P.S case No- 135/21 dated 25.06.21 registered under Section 30(a) of Bihar Prohibition and Excise Act 2016.

And further a writ of mandamus be issued directing the official respondents to provisionally release the above said vehicle in favor of petitioner

during pendency of Daudpur P.S case No- 135/21 as the same has been kept in open area due to which the condition of the vehicle is deteriorating which is not only the loss of petitioner but it is a loss of nation also.”

Petitioner claims to be the owner of the seized vehicle and allegation against him is that he has consumed liquor but in test he was found negative. It is further submitted that only 220 ml. illicit liquor was recovered from his vehicle and 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	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA