

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19073 of 2021

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Upendra Prasad, Son of Late Bunilal Prasad, Resident of Village-Baliya, P.S.-
Maharajganj, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna
2. The District Magistrate, Saran at Chapra.
3. The Superintendent of Police, Saran at Chapra.
4. The Station House Officer, Amnour Police Station District-Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Singh, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC 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 following reliefs:

“To issue a writ in the nature of mandamus directing/commanding the Respondents to release pickup van bearing Registration No. BR-29F-3356 having Engine No. GG91G58288, Chassis No. MAIZN2GGA91GA4344, in favour of petitioner which has been seized in connection with Amnour P.S.Case No. 209/2020 dated 5.6.2020, registered under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

B) Any other relief or reliefs, writ or writs, direction or directions, which this Hon’ble Court may deem fit and proper in the facts and circumstances may also be



granted.”

It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was stolen by unknown thieves on 29.09.2019 for which he has lodged FIR giving rise to Maharajganj P.S Case No. 259 of 2019 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor and 600 litre illicit spirit was recovered by the police from said stolen Pick up van giving rise to Amnour P.S. Case No. 209 of 2020 dated 05.06.2020 for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, and the culprits fled away leaving the vehicle which was seized by the police.

Petitioner claims to be owner of the seized vehicle and same was stolen on 29.09.2019 for which he had earlier instituted a case as such, petitioner cannot be held to be responsible for transportation of illicit liquor, however, since the vehicle was used for transportation of illicit liquor same is liable for confiscation. It is further submitted by learned counsel for the petitioner that confiscation proceeding has not been initiated as yet.

In the facts and circumstances of the case, the District Magistrate/Confiscating officer Saran at Chapra is



directed to initiate confiscation proceeding, if not already initiated and provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was stolen and subsequently recovered and seized by the police in excise case 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 and direction, this writ petition is disposed of.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	03.01.2022
Transmission Date	

