

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19411 of 2021

=====

Gupteshwar Prasad Son of Sri Daroga Singh R/o Vill- Tedhi Bazar, Dumraon,
P.O.- Dumraon, P.S.- Dumraon, Distt- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Prohibition and Excise, Government of Bihar, Patna.
2. The Excise Superintendent, Gaya.
3. The District Magistrate, Gaya.
4. The Sub-Inspector, Excise, Patrolling Party, Gaya.
5. SHO- Barachhattee, Cobbera Battalion.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Rajiv Ranjan Kr. Pandey, Advocate
For the Respondent/s : Mr.Kumar Manish (SC 5)

=====

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).

“A. For issuance of an appropriate writ in the nature of Mandamus or any other writ/ writs/ order/ orders Commanding and directing the respondents authority to release the vehicle (Maruti Suzuki 5X4) belonging to the petitioner vide Registration No-JH-01Z-7777, En. No-M16AN2007737 accordingly CH. NO-MA3EFJC1500147385, which is seized in connection with Excise Case No-192/21 Under Section 30(a) & 56(b) of the Bihar Excise Amendment Act 2018, without taking any legal action.
1/B. For issuance of other writ/writs, order/orders, direction/directions for which the petitioner found entitle to.”



Petitioner claims to be the owner of the seized vehicle and the vehicle was not being driven by the petitioner rather the driver was driving the car. It is further submitted that only 0.180 litres of illicit foreign liquor was recovered from the back sheet-cover of the driver in a bottle and petitioner was not aware that said illicit liquor was kept in his car. 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)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.12.2021
Transmission Date	

