

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19645 of 2021

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Rakesh Pandey @ Rakesh Kumar Pandey Son of Lalji Pandey Resident of
Village- Rupaspur, P.S.- Mirjamurad, District- Varanasi (Uttar Pradesh).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate, Buxar.
3. The Superintendent of Police, Buxar.
4. The S.H.O., Buxar (Muffasil) Police Station, District- Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Satyapal Singh, 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 MR. JUSTICE S. KUMAR)

Date : 23-12-2021

Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner has prayed for the following reliefs: -

“For issuance of a direction/order or an appropriate writ for directing the respondent authorities to release the Tavera Vehicle bearing Registration No. UP-65AH-9320, Chassis No. MA6AB6G767HE57968 and its Engine No. 3EG58189 which has been seized in Buxar (Muffasil) P.S. Case No. 40 of 2020 for the offence U/S 30(a) of Bihar Prohibition of Excise (Amendment) Act, 2018 for recovery of 276.48 liters foreign liquors from the alleged vehicle.”



It is submitted that 276.48 litres of foreign liquor was recovered from the car of the petitioner, which was parked on the main road of Nadaw, which was stolen on 16.01.2020 by some unknown persons, for which he has lodged FIR on 16.01.2020 giving rise to Lanka P.S. Case No. 51/2020 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor which was seized by the police on 02.02.2020.

Since seized vehicle was stolen by some miscreants, 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.

Petitioner claims to be owner of the seized vehicle and same was stolen on 16.01.2020 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 stated in the petition that confiscation proceeding has not been initiated till date.

In the facts and circumstances of the case, the District Magistrate/Confiscating officer, Buxar is directed to provisionally release the vehicle of petitioner after due



identification of ownership of the vehicle mentioned above 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.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.12.2021
Transmission Date	

