

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20382 of 2021

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Rakesh Biswa son of Om Prakash Biswa, Resident of Village-Manglabari
Busty, Near Krishna Mandir, Jalgaon Kalchini, P.S.-Jalgaon, District-
Jalpaiguri (W.B.).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Divisional Commissioner, Tirhut Commissionery, Muzaffarpur.
3. The District Magistrate cum Collector, East Champaran at Motihari.
4. The Superintendent of Police, East Champaran at Motihari.
5. The S.H.O., Pipra Police Station, District-East Champaran at Motihari.
6. The Investigating Officer of Pipra P.S. Case No. 265/2021, District-East
Champaran at Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay 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

Petitioner has prayed for the following relief(s):-

“(I) For issuance of writ in the nature of
Mandamus or any other appropriate writ(s), order(s),
Direction(s) to the respondents to release the Innova
(Omni bus) bearing Registration No. WB74S2548
Engine No. 2KD6565747, Chasis no.
MBJ11JV4007227357, Which has been seized in
connection with Pipra P.S. Case no 265/2021 dated



17.10.2021 for the offences under section 30 (a) of the Bihar Prohibition and Excise Act. 2016.

(II) For issuance of any other appropriate writ(s), order(s), direction(s) for which the petitioner is entitled to in the facts and circumstances of the case.”

Allegation is recovery of 750 ml. of illicit liquor from the seized vehicle giving rise to Pipra P.S. Case no 265/2021 registered for the offences under section 30 (a) of the Bihar Prohibition and Excise Act. 2016.

Petitioner claims to be the owner of the said vehicle and only 750 ml. illicit liquor has been recovered. It is further submitted that petitioner had no knowledge about illicit liquor being kept in his vehicle.

In the facts and circumstances of the case, the concerned District Magistrate/Confiscating officer, East Champaran at Mohihari 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 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)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	02.01.2022
Transmission Date	

