

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20509 of 2021

=====

Rohit Kumar Jha Son of - Kashi Kant Jha Resident of Village Hariharpur,
Post Office - Hariharpur, Police Station - Kamtaul, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Secretary Department of Excise, Government of Bihar, Patna.
2. The District- Magistrate, District- Sitamadhi.
3. The Superintendent of Police, District- Sitamadhi.
4. The Officer Incharge, Pupri Police Station, District- Sitamadhi.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Krishna Mohan Mishra, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP7)

=====

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).

“i. To issue appropriate writ in the nature of certiorari or any other writ to quash the order of seizure dated 22.11.2021 and/or release or provisionally release the Scorpio vehicle vide Registration no- BR07PC-4583 which has been seized in connection with Pupri P.S case No. 384 of 2021 dated 22.11.2021 under section 30 (a) of Bihar prohibition and Excise Act, 2016 and section 414 of IPC as neither doing drunken driving nor being transporting of liquor etc. as



such seizure of vehicle is against the provision of the Act.

ii. To direct respondents to release the vehicle as the vehicle is not liable for confiscation u/s 56 of the Act because the petitioner or the driver of the vehicle had not contravened the provision of Bihar prohibition and Excise Act.

iii. To issue writ and direction to the respondent to release the vehicle forth with or within limited time as the vehicle is lying under open sky without providing proper protection as the damage may cause to the vehicle.

iv. To issue any other writ /writ, order /orders direction directions as your honour deem and proper.”

Petitioner claims to be the owner of the seized vehicle and said vehicle was not being driven by the petitioner rather another person was driving the vehicle. It is further submitted that only 500 ml. of Night Blue liquor was recovered and petitioner was not aware that said illicit liquor was kept in his vehicle. It is further submitted that confiscation proceeding has not been initiated as yet.

In the facts and circumstances of the case, District Magistrate/Confiscating Authority, Sitamadhi 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)

P.K.P./Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	24.12.2021
Transmission Date	

