

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20725 of 2021

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Kavita Seth @ Savita Seth, Wife of Shashikant Seth, resident of mohalla-K
9/4, Patthar Gali, Vishesarganj, P.S.-Kotwali, District-Varanasi (Uttar
Pradesh).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Govt. of Bihar, Patna.
2. The Superintendent, Excise, Kaimur at Bhabua.
3. The Superintendent of Police, Kaimur at Bhabua.
4. The S.H.O. Mohania Police Station, District-Kaimur at Bhabua.
5. The Sub-Inspector (Informant), Mohania Police Station, District-Kaimur at
Bhabua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Parwej Khan, Advocate
For the Respondent/s : Mr. Vivek Prasad (Gp7)

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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 following reliefs:



That, this civil writ application is being filed on the behalf of petitioner who is old woman for issuance of any appropriate writ(s)/order(s) /direction(s) to release the vehicle (WAGONR car) bearing registration No. UP65BU- 3291, belongs to petitioner which has been seized under Excise Act on 26.09.2021, by the Sub-Inspector of police, Mohania Police Station, District- Kaimur at Bhabua (Respt. No. 5) vide Mohania P.S. case No. 439 of 2021, dated 26.09.2021 under Excise Act within the district Kaimur at Bhabua, and/or to allow other suitable relief(s) in facts and circumstances of the case.

Allegation is recovery of 200 ml. of illicit liquor from a car wherein three persons were travelling giving rise to Mohania PS Case No. 439 of 2021 under sections 30(a) of the Bihar Prohibition and Excise Act, 2018.

Petitioner claims to be the owner of the said vehicle and only 200 ml. illicit liquor has been recovered. It is further submitted that petitioner had no knowledge about illicit liquor being kept in his car. In fact, the husband of the petitioner was travelling the in said vehicle along with others and due to some altercation with the police, they have been dragged in the



present case. It is further submitted that no confiscation proceeding has been initiated till date.

In the facts and circumstances of the case, the **concerned District Magistrate/Confiscating officer**, 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	24.12.2021
Transmission Date	

