

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20867 of 2021

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Shyam Babu Thakur, S/o Dev Narayan Thakur R/o Village - Uchidih, P.O.
Ramkaran Pakri, P.S. Pipra Dist. - East Champaran, Bihar.

... .. Petitioner/s

Versus

1. State of Bihar through District Magistrate, Nalanda.
2. The Superintendent of Police, Nalanda.
3. The Excise Superintendent, Nalanda.
4. The SHO of the Giriyak Police Station.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prakash Chandra
For the Respondent/s : Mr. Kumar Manish (Sc5)

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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 the petitioner prefers this petition with a prayer for issuance of appropriate writ or writs in the nature of mandamus commanding the respondents for releasing of petitioner's Alto car bearing registration No. BR – 06BY - 5684, Engine No. F8DN618487, Chassis No. MA3EUA61SOOE31485 which was seized in connection with Giriyak P.S Case No. 545/2021, U/s. 30 (A)/37 (B) /37 (C) of Bihar Excise (Amendment) Act, 2016 in most illegal and arbitrary manner.



Allegation is recovery of 130 ml of illicit liquor from a car wherein two persons were travelling. Out of two, one was found in drunken condition giving rise to Giriyak PS Case No. 545 of 2021 under sections 30(a), 37(B)/37(C) of the Bihar Prohibition and Excise Act, 2018.

Petitioner claims to be the owner of the said vehicle and only 130 ml. illicit liquor has been recovered. It is further submitted that petitioner had no knowledge about illicit liquor being kept in his car. 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	

