

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20820 of 2021

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Arvind Kumar Das S/o Maheshwari Das Resident of Mohalla-Ward no.1,
Hathiondha Sinduna Tola, P.S.-Barhara, District-Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar.
2. The Excise Commissioner, Bihar, Patna.
3. The District Collector Cum District Magistrate, Bhagalpur,
4. The State of Bihar through the Director General of Police, Bihar.
5. The Superintendent of Police, Bhagalpur
6. Station-House-Officer, Lodipur Police Station, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Samir Kumar
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:

“a. For issuance of writ in the nature of mandamus directing to release the Hundai Motor Car of the petitioner bearing Registration No. BR11AM4989 having Chasis No. MALA851CLKM992550 which has been seized in connection with Lodipur P.S. Case No. 186/2021 u/s 30(a) & 37(c) of Bihar Prohibition & Excise Amendment Act, 2018.

b. Any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case.”



Allegation is recovery of 1.5 litre of illicit liquor from the seized car giving rise to Lodipur PS Case No. 186 of 2021 under sections 30(a), 37(c) of the Bihar Prohibition and Excise Act, 2018.

Petitioner claims to be the owner of the said vehicle and only 1.5 litre 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	

