

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.473 of 2022

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Harish Kumar Dhanani son of Sri Narayan Das Dhanani, resident of 2nd Floor, Oakville Academy, Purulia Road, Near Railway Over bridge, Ara Gate, Mahilong, P.S. Tati Silwat, District Ranchi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise, Prohibition and Registration Department, Government of Bihar, Patna.
2. The District Magistrate, Kaimur.
3. The Superintendent of Excise, Kaimur.
4. The Superintendent of Police, Kaimur.
5. The Officer in Charge, Mohania Police Station, District Kaimur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pankaj Maijorwar, Adv

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 MR. JUSTICE S. KUMAR)

Date : 01-04-2022

Heard learned counsel for the parties.

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

“(i) For direction/order to the Respondents to release the vehicle (Mahindra XUV) bearing registration number JH 14H 0001 in favour of the petitioner, which had been seized in connection with Mohania P.S. Case No. 476 of 2021 dt. 17.10.2021 registered under section 30(a) of Bihar Prohibition and Excise Act, 2016.”

Allegation is recovery of 350 ml of illicit liquor from the Mahindra XUV Car being driven by the petitioner.

It is further submitted that a meagre quantity of 350 ml.

of liquor has been recovered from the vehicle, as such, it cannot be construed that the vehicle was used for transporting/carrying illicit liquor.

In the facts and circumstances of the case, **the District Magistrate/Confiscating Officer, Kaimur**, is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle 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.

In view of amendment in the Excise Act, and same being applicable in pending cases, it shall be open for the petitioner to get his/her vehicle released after making payment of penalty in terms of Rule 12(A) inserted by amending Bihar Prohibition and Excise Rules, 2021.

With said observation and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA