

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.745 of 2022

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Magadh Logistic Private Limited First Floor, Waris Manzil, At Mohalla Chhajju Shahkamal, Post Office - Bihar Sharif, Police Station- Bihar, District - Nalanda, through its Director and legal representative Mohammad Arman Siddique, male, aged about 33 years, Son of Mohammad Shaheb Uddin, Resident of First Floor, Waris Manzil, At Mohalla Chhajju Shahkamal, Post Office - Bihar Sharif, Police Station- Bihar, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The District Magistrate cum Collector, Vaishali at Hajipur.
3. Superintendent of Police, Vaishali at Hajipur.
4. Sub -Divisional Magistrate, Mahua, Vaishali.
5. The S.H.O of Mahua Police Station, Mahua, Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Md. Helal Ahmad, Adv
For the Respondent/s : Mr.Vikash Kumar (SC11)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

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):-

“That this writ application on behalf of the petitioner above named, is for issuance of a writ in the nature of mandamus and/or any other appropriate writ or writs, order of direction, commanding the respondent(s)/ authorities to release Ashok Leyland Truck bearing Registration No. BR-21GB-2941, Engine No. KDPZ124317, Chasis No.

MB1NACHDOKPDK2428 in favour of the petitioner, which was seized by respondent no. 5 SHO of Mahua Police Station at Mahua, Vaishali in connection with Mahua P.S. Case No. 714/2021 dated 23.11.2021 under section 30(a), 32(i)(ii)/41(i) of Bihar Prohibition and Excise Act, 2018 for recovery of total 1 (one) Liter foreign liquor from the cabin of the said truck.”

Allegation is recovery of 1 litre of illicit liquor from the cabin of the seized truck. Petitioner claims to be the owner of the seized truck.

It is further submitted that a meagre quantity of 1 litre of liquor has been recovered from the cabin of the driver of the vehicle, as such, it cannot be construed that the vehicle was used for transporting/carrying illicit liquor and same was within the knowledge of the owner of the truck.

In the facts and circumstances of the case, **the District Magistrate/Confiscating Officer, Vaishali at Hajipur**, 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