

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.880 of 2022

=====

Binod Kumar Yadav @ Binod Yadav son of Ramdhyan Yadav, resident of Village-Machhauta, P.S. Daraunda, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise Department, Govt. of Bihar, Patna.
2. The District Magistrate, Siwan.
3. The Superintendent of Police, Siwan.
4. The Officer-in-charge, Daraunda Police Station, Siwan.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary, Adv
For the Respondent/s : Mr.Vikash Kumar (SC11)

=====

(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):-

“(a) For issuance of appropriate writ in the nature of mandamus commanding and directing the respondent authorities to release the Bolero of the petitioner bearing Reg. No. BR31P5429 seized by Daraunda Police in connection with Daraunda Police station case No. 83 of 2021 registered under sections 279 and 304(A) of Indian Penal Code and Section 30(a) of Bihar Prohibition Excise Act, 2016, in favour of the petitioner or his representative, the vehicle in question has been seized with allegedly wine total only 800 ml. Country made liquor, the case is presently pending in the court of Addl. Sessions Judge-II, Siwan.”

Allegation is recovery of 800 ml of illicit liquor from the BOLERO vehicle. Petitioner claims to be the owner of the seized BOLERO Vehicle.

It is further submitted that a meagre quantity of 800 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, District Magistrate, Siwan,** 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