

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.768 of 2022

Aditya Raj, Son of Ram Kumar Verma Resident of 106, Adarsh Vikram Shila, Ambedkar Murti Hanuman Nagar, Kankarbagh, Sampatchak, Police Station- Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate cum Collector, Patna.
3. The Superintendent of Police, Patna.
4. The Officer In charge, Fatuha Police Station, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Anant Kumar Mishra, Advocate

For the Respondent/s : Mr.Lalit Kishore (Ag)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 01-04-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

“(I) To direct the respondent authorities to release the Mahindra Bolero Power + SLX bearing Registration No.BR01PK6313, Chassis No.MA1XL2WJXK5K59160, Engine No.WJK6K62989 in favour of petitioner.

(ii) For any other relief / reliefs for which petitioner is found entitled in the facts and circumstance of this case.”

Allegation is recovery of 1.5 liter foreign liquor from the seized Bolero vehicle of the petitioner.

Petitioner claims to be the owner of the seized vehicle.

In the facts and circumstances of the case, the District Magistrate/Confiscating Officer, Patna 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)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.04.2022
Transmission Date	NA

(S. Kumar, J)