

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1972 of 2022

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Nishant Deep Son of Dineshwar Prasad Yadav, Resident of Village-
Chakmahila, P.s. Sitamarhi, District-Sitamarhi. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Custom and Excise Department, Government of Bihar, Patna.
2. The Principal Secretary, Custom and Excise Department, Government of Bihar, Patna.
3. The Collector-cum-District Magistrate, Sitamarhi.
4. The Superintendent of Police, Sitamarhi.
5. The District Transport Officer, Sitamarhi.
6. The Officer-in-Charge of Sursand Police Station, District-Sitamarhi.
7. The Investigating Officer, Sursand P.S. Case No. 565/20201.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vinod Kumar, Advocate
For the Respondent/s : Mr.Kumar Manish (Sc5)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 21-03-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

- (i) For issuance of a writ in the nature of mandamus commanding the respondent No. 3 to release Maruti Baleno Car bearing registration No. BR-06CT-6680, Chasis No.-MA3EWB22SMJ-716837, Engine No: K12MN4742485 , Colour Pearl Arctic white which was registered in the name of petitioner. This vehicle was seized by Sursand Police Station, Sitamarhi in connection with Sursand P.S.Case No. 565/21 for offences U/S 279, 337, 338 of Indian Penal Code and 37(b)(c) and 30(a) of Bihar State Prohibition and Excise Act, 1918 and 185 of M.V. Act.

- (ii) For issuance of an appropriate writ/writs, order/orders, direction/ directions commanding to the respondent No.3 to not sale the above mentioned seized car till the final disposal of the present case.
- (iii) For issuance of an appropriate writ/ writs, order/orders, direction/ directions to respondent to grant any other relief/ reliefs as to which the petitioner is held entitled to in the facts and circumstances of the case.

Allegation is recovery of one Nepali Saufi Bottle containing 300 ml. of liquor from the car of the petitioner and one person was apprehended in a drunken condition.

Learned counsel for the petitioner submits that aforesaid recovered bottle was empty one and there was no liquor in it.

It is further submitted that confiscation proceeding has been initiated being confiscation case No.14 of 2021.

In view of the above, the writ petition is disposed of with a direction to the **Confiscating Authority/District Magistrate, Sitamarhi** to provisionally release the vehicle of petitioner after due identification of ownership 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)

Sanjay/- Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.03.2022
Transmission Date	NA