

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3346 of 2022

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Rajendra Dangi S/o Jawahir Mahto R/o Village- Karni, P.S.- Itkhori, District- Chatra (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Collector/District Magistrate, Patna, District- Patna.
3. The Excise Deputy Commissioner, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Superintendent of Excise, Patna.
6. The Police Inspector cum S.H.O., Nadi Police Station, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dinesh Jha, Advocate
For the Respondent/s : Mr.Vikash Kumar (S.C. 11)

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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 : 22-04-2022

Heard learned counsel for the parties.

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

I. For issuance of an appropriate writ/writs /order/orders/direction/directions and for direction to the Respondents to release the seized white colour Bolero vehicle, Registration No. JH01BX7788, Engine No. GPF4M81142 and Chasis No. MA1PL2GPKG5A4204 which has been seized in connection with Nadi P. S. Case No. 262/2021 dated 14.09.2021 (state Vs Ramaji Kumar and ors.)Sec. 30(a) Bihar Prohibition and Excise Act, 2016 and Sec. 414 of I.P.C. hence forth taking into consideration that nothing Incriminating article has been recovered from the vehicle.

ii. To any other relief/s to which the petitioner is entitled in the facts circumstances of the case.

Allegation is recovery of 750 ml of illicit liquor from the vehicle of the petitioner. Petitioner claims to be the owner of the seized vehicle.

It is further submitted that a meagre quantity of 750 ml. of liquor has been recovered from the vehicle, as such, it cannot be inferred that the vehicle was used for transporting/carrying illicit liquor, nor it can be presumed that recovered illicit liquor was kept for sale/purchase/ trade purpose and it appears that same was kept for personal consumption.

In the facts and circumstances of the case, concerned District Magistrate/Confiscating Authority is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle 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 also be open for the petitioner to get his/her vehicle released in terms of Rule 12(A) inserted by amending Bihar Prohibition and Excise Rules, 2021.

With said observations, this writ petition is disposed

of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	