

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5270 of 2022

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Shri Kanta Kumar @ Botla @ Shri Kant, Son of Suresh Singh, Resident of
Village- Musepur, P.S. Bihata, 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 Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The District Magistrate-Cum- Collector, Patna, District- Patna.
4. The Assistant Commissioner, Excise, Patna.
5. The Station House Officer, Maner Police Station, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Indeshwari Prasad Mandal, Advocate

For the Respondent/s : Mr.Vivek Prasad (GP7)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 09-05-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

“for issuance of nature of Mandamus
commanding the respondents to release the Mahindra
Scorpio & LXBS-IV (2009-2014) bearing Registration



No. BR01-PE-3960, Engine No. MWD4E11528, Chesis No. MA1TA2MWND2F20492 of the petitioner which has been seized in connection with Special Case No. 4905/2021, arise out in Maner P.S. Case No. 580/2021 dated 07.08.2021 registered under Sections 309a), 36, 41(1)(2) of Bihar Excise and Prohibition Act, 2018.

(ii) For any other relief/reliefs for which the petitioners are found entitled in the eye of law.”

It is alleged that on the basis of confidential information, the police intercepted a truck (Engine No.DL1MA-6803) which was followed by a Scorpio vehicle bearing registration no. BR01PE-3960. Subsequently, on search being made, from the truck of co-accused, total, 2148.75 litres of illicit liquor has been recovered whereas from the Bolero vehicle in question nothing has been recovered.

Petitioner claims to be the owner of seized vehicle bearing Registration No.BR01PE-3960 which was seized along with the truck from which recovery of illicit liquor has been made only on the basis of suspicion that in the said Scorpio vehicle four persons were traveling and they are acting as a liner. In fact, no recovery has been made either from the Scorpio vehicle or from the persons travelling in the said vehicle.

In the facts and circumstances of the case, **the District**



Magistrate/Confiscating Officer concerned 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.



With aforesaid observation and direction, this writ
petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	16.05.2022
Transmission Date	

