

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7215 of 2022

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Japani Goswami Son of Jagdish Goswami Resident of Mohalla- Jogi Tola,
Nichali Bazar, Near NAC Office, P.S.- Rajgir, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Excise, Bihar, Patna.
2. The District Magistrate, Nalanda at Biharsharif.
3. The District Transport Officer, Nalanda at Biharsharif.
4. The Superintendent of Police, Nalanda at Biharsharif.
5. The Motor Vehicle Inspector, Nalanda at Biharsharif.
6. The Police Inspector - cum-S.H.O., Rajgir Police Station.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Sinha, Advocate
For the Respondent/s : Mr.Kumar Manish (Sc 5)

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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 : 22-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

- 1) That this application is directed for the direction to the respondents to release the vehicle TOYOTA INNOVA bearing Registration No. BR02PB6686, Engine No – 2KDU696501, Chassis No- MBJ11JV400750846 in favor of the petitioner, who is the sole owner of the vehicle, sized in connection with Rajgir P.S. case No. 37/2022 instituted under section 30(A) /37(b)(c) of Bihar prohibition& excise Amendment Act- 2016.

Allegation is recovery of 400 ml. of illicit liquor from the seized vehicle of the petitioner.

Petitioner claims to be the owner of the said vehicle.

It is further submitted that a meagre quantity of 400 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, the District Magistrate/Confiscating Officer concerned 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 and on furnishing adequate sureties to the satisfaction of District Magistrate / Confiscating Authority and undertaking.

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.

Petitioner is also at liberty to get his/her vehicle

released on 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)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.07.2022
Transmission Date	NA