

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7949 of 2022

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Rajeshwar Yadav S/o Dinanath Yadav, R/o Bhandora Colliery Mithani Centre
P S. Barabani, Dist. - Bardhaman. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar Patna.
2. The Director General of Police, Bihar, Patna.
3. The Principal Secretary, Excise, Govt. of Bihar, Patna.
4. The Collector, Rohtas at Bhagalpur.
5. The Station House Officer, Nawgachia.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Pandey, 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)

**(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 reliefs:-

- a) For declaring seizure of vehicle of the petitioner being white colour Mahindra Bolero Pickup, Registration No- WB-37-D-7893, Engine No- TBK1D48093, Chassis No- MA1ZN2TBKK1D39629 in Nawgachhia P.S. Case No- 53/2022 dated 05.03.22 for the offences U/S 30(a) Bihar Prohibition and Excise Act, 2016 is illegal, unwarranted and bad in law.
- b) For commanding the state respondents including the District Magistrate, Majiara Bardhaman forthwith to release the vehicle of the petitioner in Mahindra Bolero Pickup, Registration No- WB-37-D-7893, Engine No- TBK1D48093, and Chassis No- MA1ZN2TBKK1D39629 Nawgachhia P.S. Case No- 53/2022 dated 05.03.22 as contained in annexure- 2.

Allegation is recovery of 300 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 300 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	
CAV DATE	
Uploading Date	28.07.2022
Transmission Date	