

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8768 of 2022

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Santosh Yadav @ Santosh Kumar Yadav son of Mangal Yadav, resident of Mohalla- Yogipur, Kankarbagh, Sampatchak, P.O. Lohiyanagar- 800020, P.S.- Patrakarnagar, Town and District at Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Excise Commissioner, Bihar, Patna.
2. The Collector-cum- District Magistrate, Gopalganj, District- Gopalganj.
3. The Excise Superintendent, Gopalganj, District- Gopalganj.
4. The Station House Officer, Kuchaikat Police Station, District- Gopalganj.
5. The Station House Officer, Kankarbagh Police Station, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Prasad, 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)

Date : 30-06-2022

Heard learned counsel for the parties.

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

- (i) For quashing the seizure list dated 21.01.2022 whereas respondent authority seized the Swift Desire Motor Car bearing Registration No. BR01ET 1399 in connection with the Kuchaikote P.S. Case No.31/2022 under the Excise Act which is against the provisions of law.

- (ii) For issuance of a direction to the Additional Chief Judicial Magistrate, Gopalganj in connection with Kuchaikote P.S. Case No.31/2022 on dated 21.01.2022 under Section 30(a) of the Bihar Prohibition & Excise (Amendment) Act 2018 for release of SWIFT desire motor car bearing Registration No.BR01ET1399, Chasis No. MA3CZFB3SLB656611, Engine No.K12NN9001436 in favour of the petitioner.
- (iii) For issuance of a direction to release and hand over the aforesaid vehicle to the petitioner which was seized under the Excise Act.
- (iv) For grant of any other relief/reliefs to which the petitioner may be found entitled to in the facts and circumstances of this case.

It is submitted that 85.59 litres of illicit liquor was recovered from the car of the petitioner, which was stolen on 26.08.2020 by some unknown persons, for which he had lodged FIR on 26.08.2020 giving rise to Patrakarnagar Police Station bearing FIR No. 502 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor which was seized by the police on 21.01.2022.

Petitioner claims to be owner of the seized vehicle and same was stolen on 26.08.2020 for which he had instituted a case as such, petitioner cannot be held to be responsible for transportation of illicit liquor.

In the facts and circumstances of the case, the District Magistrate/Confiscating officer, Gopalganj is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was stolen and subsequently recovered and seized by the police in excise case on production of ownership and registration papers with respect to vehicle in question and on furnishing adequate sureties to the satisfaction of District Magistrate/Confiscating Authority, Gopalganj.

With said observations and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	