

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9744 of 2022

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Pankaj Kumar Singh S/o Brijkishore Singh, Resident of 181/2 G.H. Colony,
P.S.-Chhota Gobindpur, District-East Singhbhoom.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home,
Patna.
2. The Principal Secretary, Excise and Prohibition Department, Govt. of Bihar,
Patna.
3. The Director General of Police, Bihar, Patna.
4. The District Magistrate, Bhagalpur.
5. The Excise Superintendent, Bhagalpur.
6. The Superintendent of Police, Naugachiya under the District of Bhagalpur.
7. The Officer in charge of Bihpur Police Station under the District of
Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Swapnil Kumar Singh, Advocate
For the Respondent/s : Mr.Vikash Kumar (SC-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 : 22-07-2022

Heard learned counsel for the parties.

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

- (A) To issue writ in the nature of certiorari or any other writ/writs, order/orders, direction/directions for quashing the order dated 02.02.22 passed in Bihpur p.s. case no 359 of 2021 passed by learned spl Excise judge, 1st Bhagalpur whereby and where under learned court below refused to the release the vehicle on the presumption that from the Truck no JH 13 F-6733 the consignment of illegal liquor carried though nothing has been recovered from the truck in question.
- (B) For issuance of writ in the nature of Mandamus against the Respondent for releasing the Truck which is only source of income and is hypothecated with Tata Motor Finance company and the petitioner has to pay EMI every month.
- (c) For any other relief/reliefs, order/orders and direction/directions may be issued in favour of the petitioner in accordance with law for which he is entitled too in the ends of justice and equity.

Allegation is recovery of 1.5 litres of illicit liquor from the seized truck of the petitioner.

Petitioner claims to be the owner of the said vehicle.

It is further submitted that a meagre quantity of 1.5 litres 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/her 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)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	