IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9623 of 2022

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Babloo Kumar, Son of Upendra Singh, Resident of Village- Lohan, Police Station- Ariyari, District- Sheikhpura.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The Additional Chief Secretary-cum-Principal Secretary, Government of Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The District Magistrate-cum-Confiscating Officer, Jamui.
5. The S.H.O Chandradeep Police Station, District- Jamui.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Arun Kumar, 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)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 29-07-2022

Heard learned counsel for the parties.

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

(i) A writ in the nature of certiorari setting aside the part of impugned order bearing Memo No. 155 dated 29.04.2022 passed by Respondent Additional Chief Secretary-cum-Principal Secretary, Department of Excise (Respondent No. 2) in Excise Revision No. 115 of 2022 whereby and where under contrary to Amended provision of Rule 12A(2) despite the fact that Scorpio vehicle bearing JH-10AM-3423 of petitioner which is seized and put in Police Station since 12.07.2021 is not insured and present insurance value is not available has directed to release the vehicle on deposit of

50% amount of insured value despite the fact the petitioner who is owner of vehicle was not present on the vehicle and only 9 litres of foreign liquor is alleged to be recovered from vehicle

(ii) For setting aside the appellate order dated 16.11.2021 passed in Confiscation Appeal Case No. 96 of 2022 by Respondent Excise Commissioner, Bihar, Patna whereby and where under the appeal against confiscation order dated 16.112021 passed by Respondent District Magistrate, Jamui has illegally be rejected.

(iii) For setting aside the impugned confiscation order dated 16.11.2021 passed in Confiscation Case No. 126 of 2021 by Respondent District

Magistrate, Jamui whereby and where under without considering the aspect that alleged recovery of 9 litres foreign liquor has not been seized from the vehicle in question rather the same is recovered from open place which is evident from seizure list itself.

iv) For a direction upon the Respondent concerned to provisional release the vehicle in question taking into consideration the economic status of the petitioner, nature of his involvement as also the meagre quantum of 9 litres alleged recovery from vehicle as petitioner is unemployed youth and had run the vehicle for ekening out his livelihood.

(v) Any other order/orders for granting any other reliefs for which the petitioner is found entitled to in the facts and circumstances of the case.

The revisional Authority by his order dated 16.11.2021 has held that the vehicle in question owned by the revisionist is allowed to be released upon payment of 50% of the insurance value of the vehicle as penalty. The insurance value means the value of the vehicle as assessed by the Insurance Company.

It is submitted on behalf of petitioner that the vehicle in question was seized for carrying 09 litres of foreign liquor and at the time of seizure, the vehicle was not insured and thereafter was kept in police station from 12.07.2021 and has suffered the vagaries of weather and wear and tear and the value of the vehicle has diminished, as such, direction of the revisional authority for payment of penalty of 50% of the insured value requires interference.

The writ petition is disposed of with a direction to the District Collector/Confiscating Authority to get the valuation of the vehicle done by the concerned D.T.O. and vehicle of the petitioner to be released on making payment of 50% of such valuation.

The order passed by the Revisional Authority dated 29.04.2022 is modified to the extent as indicated above.

The writ petition is accordingly disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

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CAV DATE	
Uploading Date	
Transmission Date	