

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10983 of 2022

=====

Anil Yadav Son of Ganesh Yadav, Resident of Village- Narayanpur, Ward No.- 14, P.S.- Pupri, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
2. The Principal Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
3. The Additional Chief Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
4. The Excise Commissioner, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
5. The District Magistrate-cum- Collector, Jamui.
6. The District Transport Officer, Jamui.
7. The Excise Inspector, Jamui.
8. The Superintendent of Police, Jamui.
9. The S.H.O., Chakai Police Station, Jamui.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Jagjit Roshan, Advocate
For the Respondent/s : Mr.Kumar Manish (S.C. 5)

=====

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 : 05-08-2022

Heard learned counsel for the parties.

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

- (I) Issuance of an appropriate writ or writs in the nature of Mandamus directing the Respondents Authorities to release the Vehicle Mahindra Scorpio bearing Registration No. **BR-06-PF-3107**, Chasis No. – **MA1TA2XM2N2A16966**, Engine No. – **XMN4A10072**, of the

Petitioner and hand over the possession to the Petitioner which has been seized in connection with Chakal P.S. Case No. 149 of 2022 under Section – 272, 273 of I.P.C. and Section 30 (a), 37 (c), 45 of Bihar Prohibition and Excise Amendment Act, 2018.

- (II) Issuance of writ or writs, order/orders, direction/directions directing the respondents to stay the Confiscation Case if initiated and pending before the Respondent no. – 5 till the final adjudication of this case.
- (III) Grant such other order/orders, relief/reliefs as your Lordships may deem fit and proper.

Allegation is recovery of 600 ml. of illicit liquor from the seized Mahindra Scorpio vehicle of the petitioner.

Petitioner claims to be the owner of the said vehicle.

It is further submitted that a meagre quantity of 600 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/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)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	