

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11394 of 2022

=====

Braj Mohan Singh, son of Late Satish Chandra Singh, Resident of Village-Farabari, Ward No. 2, P.S.-Thakurganj, District-Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary of Excise Department, Bihar at Patna.
2. The Collector-cum-District Magistrate, Kishanganj.
3. The Superintendent of Police, Kishanganj.
4. S.H.O., Thakurganj P.S., District-Kishanganj.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Raj Kumar, Advocate
For the Respondent/s : Mr.Vivek Prasad (Gp7)

=====

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 : 12-08-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

- I. For direction to the State Respondents to release the Honda Livo bearing Registration No. BR-37Q-5476, seized in Thakurganj P.S. Case No.67 of 2022 for the offence punishable U/s - 30 (a) of Bihar Prohibition and Excise Act, 2016 dated 07.04.2022, by respondent No.2, in favour of the petitioner.
- II. Also for any other relief/reliefs for which the petitioner is entitled in the eye of law.

Allegation is recovery of 750 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 750 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)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2022
Transmission Date	NA