

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11684 of 2022

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Dhanraj Ray Son of Vishwanath Ray Resident of Village- Bira @ Biro, P.S.-
Sadar Hajipur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Bihar
Prohibition and Excise, Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Nalanda.
3. The Superintendent of Police, Nalanda.
4. The Superintendent of Excise, Nalanda.
5. The S.H.O., Harnaut Police Station, District- Nalanda.

... .. Respondent/s

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Appearance :

For the Petitioner/s : Mr.Pramod Kumar,Adv
For the Respondent/s : Mr.Vivek Prasad (GP 7)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT



(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 02-09-2022

Heard learned counsel for the parties.

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

(A) A writ in the nature of mandamus or any other appropriate writ, order/s direction commanding the respondents for the following reliefs:-.

(i) To release the TATA LPT Truck Regd.No. BR06GE5552 which has been seized by S.H.O. Harnaut Police Station, District- Nalanda in connection with Harnaut P.S. Case No. 278/2022 dt 29-05-2022 for offences under section 30(a) of Bihar Prohibition Act 2018 which has been forwarded to the court of learned Additional District and Sessions Judge-V-Cum Special Judge Excise, Bihar Sharif Nalanda.

(B) To any other relief/reliefs for which the petitioner is entitled in the facts and circumstances of the case.

Allegation is recovery of 1.300 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 1.300 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)

ranjan/-

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

