

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20537 of 2021

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Ramesh Kumar Son of Pallu Ray @ Patlu Ray R/o Village- Ward No.7,
Mahua, P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Superintendent of Police, Muzaffarpur.
4. The S.H.O. of Sadar, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha, 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 : 01-04-2022

Heard learned counsel for the parties.

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

“That this writ application is being filed for issuance of a writ in the nature of Mandamus directing the respondent no. 2 to release the vehicle Creta Car bearing registration no. BR11AH-5100 seized in connection with Muzaffarpur Sadar P.S. Case No. 524 of 2020 dated 17.09.2020 registered for the offence under Section 30(a) of Bihar Prohibition & Excise Act in favour of the petitioner and further for any other appropriate writ, writs order/orders direction/directions for which the petitioner is entitled to in the facts and circumstances of the case.”

Petitioner claims to be the owner of the seized car.

It is submitted that only 900 ml. illicit liquor was recovered and

petitioner was not aware that said illicit liquor was kept in his car.

It is further submitted that a meagre quantity of 900 ml. of liquor has been recovered from the vehicle, as such, it cannot be construed that the vehicle was used for transporting/carrying illicit liquor.

In the facts and circumstances of the case, concerned District Magistrate/Confiscating Authority 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 name with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

- (i) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.
- (ii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority

as and when required.

(iii) Prior to release of the vehicle, a Panchanama would be prepared wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama.

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.

In view of amendment in the Excise Act, and same being applicable in pending cases, it shall be open for the petitioner to get his/her vehicle released after making payment of penalty in terms of Rule 12(A) inserted by amending Bihar Prohibition and Excise Rules, 2021.

With said observations, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	