

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20931 of 2021

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Mohammad Asalam S/o Mohammad Isatal R/o- Ward No- 17 Nai Bazar, Bari Maszid, P.S.- Bhagwan Bazar, Dist- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The District Magistrate, Saran.
3. The Superintendent of Police Saran.
4. The Deputy Superintendent of Police, Saran.
5. The S.H.O., Manjhi, P.S. Dist- Saran.

... .. Respondent/s

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Appearance :

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

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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 the present writ petition is being filed for issuance of appropriate writ/writs, order/orders, direction/directions to the Respondent Authorities for release the Bolero Jeep Registration No. BR04N-9080, Engine No. GPE4E653994, Chassis No. MA1XX2GPKE5F80510 which has been seized in connection with Manjhi P.S. Case No. 437/2021 on 06.12.2021 instituted for offences committed under Sections 30(a), 37(C) of the Bihar Excise and Prohibition Act, 2018 and no confiscation proceeding has been initiated by the District Magistrate, Saran up till now, so your Lordships may give direction to the Respondent Authorities to release the Bolero Jeep in

favour of the petitioner because he is the owner of the said Bolero Jeep, the total recovery 2.175 English Wine litters, As per the above fact your lordship may give direction to release the Bolero Jeep in favour of the petitioner.”

Petitioner claims to be the owner of the seized Bolero Jeep and said vehicle was not being driven by the petitioner rather the same was driven by his driver. It is submitted that only 2.175 illicit liquor was recovered from the vehicle of petitioner and Petitioner has no concern with illicit liquor kept in his vehicle and same was without his knowledge or information. It is further submitted that since recovery of liquor is of small quantity, i.e., 2.175 liters, as such, it cannot be construed that the vehicle was used for transporting/carrying the 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.

Petitioner shall also have option to get his vehicle released on payment of penalty in view of insertion of Rule 12(A) by amending the 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	