

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21163 of 2021

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Awadh Kishor Choudhary, Son of Late Ram Sogarath Choudhari, resident of Ward No. 10, Kamla Garden, Mehsaul urf Rampur Lachmi, Police - Station-Sitamarhi, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Prohibition and Excise, Vikas Bhawan, Bailey Road, Patna - 800001.
2. The Collector-cum-District Magistrate, Gopalganj.
3. Excise Superintendent, Excise and Prohibition Department, Gopalganj.
4. The Officer-in-Charge cum Sub-Inspector of Police, Kuchaikot Police Station, District - Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Navendu Kumar, Advocate
For the Respondent/s : Mr.Vikash Kumar (SC11)

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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 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.)

Date : 07-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“ 1. That this writ petition is being filed for provisional release of Bus (Heavy Passenger Vehicle) of Ashok Leyland Limited Model TF1812.0D4R bearing Registration No. BR06PE8851 which has been seized in connection with the Kuchaikot Police Station Case No. 352/21 dated 22.08.2021 for the offences under Section 30(a) of the Bihar Prohibition and

Excise Act, 2016.”

Learned counsel for the petitioner submits that he is owner of passenger bus which was seized in Kuchaikot P.S. Case No. 35 of 2021 dated 22.08.2021 for the offences under section 30(a) of the Bihar Prohibition and Excise Act, 2016 on account of recovery of 35.2 liter liquor from the luggage of a passenger kept in the dicky of the bus and for which a confiscation case being confiscation case no. 1498 of 2021 was initiated in which final order of confiscation has been passed by the confiscating authority on 20.10.2021 against which petitioner has filed appeal before the appellate authority being appeal no. 886 of 2021 which is pending.

Allegation is recovery of 35.250 litres of liquor from the dickey of the bus, which was passenger vehicle and liquor was found in a luggage of one of the passenger when the police searched, for which petitioner cannot be held responsible.

Petitioner claims to be owner of the seized bus which is a passenger bus having valid route permit from Sonbarsha to Jammu Via Muzaffarpur, Gopalganj, Lucknow, Agra, Noida, Delhi etc. for a period from 16 August 2021 to 12 September, 2021 and on the relevant day, it was coming from Delhi to Sitamarhi and was carrying passengers alongwith their luggage

and had no information that illicit liquor were kept in the dickey of the bus.

In facts and circumstances of present case, the District Magistrate/Confiscating Authority, Gopalganj, is directed to provisionally release the seized bus in favour of the petitioner, who claims to be the registered owner of the seized bus on submitting the ownership and registration document of the bus and on furnishing bank guarantee of the value as indicated in the insurance document of the bus and further furnishing and undertaking that no 3rd party right will be created on the bus during pendency of appeal/revision.

The release of the bus shall be allowed within a period of 14 days from the date of furnishing of bank guarantee and the undertaking as stated above, which would however be subject to any order passed by Appellate/Revisional Authority.

With aforesaid observations and direction the writ petition is disposed of.

(Sanjay Karol, CJ)

Rajiv/veena-

(S. Kumar, J)

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	