

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21442 of 2021

Manish Manjul @ Manish Singh, Son of Deepak Kumar Singh, resident of Raghu Babu Thakur Baari Campus, Gola Ghat, Naya Bazar, Police Station - Tatarpur, District – Bhagalpur. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The Collector, Bhagalpur.
4. The Superintendent of Police, Bhagalpur.
5. The Officer-in-charge, Sabour Police Station, Bhagalpur.
6. The Investigating Officer, Sabour, Sabour P.S. Case No. 291 of 2021.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar, Advocate
For the Respondent/s : Mr.Lalit Kishore (Ag)

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 following relief:-

1. That the present writ application is being filed for grant of appropriate writ/ direction to release the car of the petitioner bearing Registration No. JH 17S 6757, make Maruti Suzuki Ltd. (Swift Car) in favour of the petitioner seized in connection with Sabour P.S. Case No. 291 of 2021, registered for the offence under sections 30(a) and 37(c) of the Bihar Prohibition and Excise Act, 2016 and allow this application.

Allegation is recovery of 600 ml. of illicit wine from the seized car of the petitioner.

Petitioner claims to be the owner of the seized vehicle.

It is further submitted that a meagre quantity of 600 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, **the District Magistrate/Confiscating Officer, Bhagalpur** is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle seized by the police in excise case 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 observation and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.04.2022
Transmission Date	NA

(S. Kumar, J)