

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.70 of 2022

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Sadanand Kumar S/o-Sri Rampravesh Yadav Resident of Village-Basobagi
Hasanchak, P.S.-Barh, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise, Patna.
2. The District Magistrate, Nalanda at Biharsharif.
3. The Excise Commissioner, Nalanda at Biharsharif.
4. The Station House Officer, Harnaut (Gokulpur) Police Station, District
Nalanda at Biharsharif

... .. Respondent/s

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Appearance :

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

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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 following relief:-

(I) For issuance of writ in the nature of
mandamus commanding and directing the
respondents authority to release the vehicle
Mahendra XUV-500 FWD-W7 bearing

Registration No. BR01PM-2373, Chassis No. MA1YW2XDUM6D10395, Engine No. XDM4D18691 of the petitioner which was seized by the S.I. of Gokulpur (O.P) of Harnaut Police Station, District-Nalanda in Harnaut (Gokulpur) P.S. Case No 593/2021 dated 12.12.2021 registered u/s 30(a) of the Bihar Prohibition Excise Act, 2016.

- (II) For further direction to respondent authority to take final decision with regard to release the vehicle.
- (III) And for any other relief/ reliefs for which the petitioner is found to be entitled in the eye of law.

Allegation is recovery of 375 ml. of illicit wine 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 375 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, Nalanda at Biharsharif** 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)

(S. Kumar, J)

Sanjay/-

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