

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17679 of 2022

=====

Guddu Kumar @ Guddu Kumar Sah Son of Late Mahendra Sah @ Mahendra Sah @ Late Mahendra Gupta, Resident of Village- Lohiya Nagar, Panhas, Ward No. 28, P.S. Town, District- Begusarai, presently residing at Village- Noorjamapur near Lakhminia Station, P.S. Ballia, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise Bihar, Patna.
2. The District Magistrate-cum-Collector, District- Begusarai.
3. The Superintendent of Police, District- Begusarai.
4. The Sub Divisional Police Officer, Ballia.
5. The Sub Divisional Officer, Begusarai.
6. The SHO Ballia, Police Station Begusarai.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Sandip Kumar Gautam, Adv
For the Respondent/s : Mr.Kumar Manish (SC5)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-12-2022

Heard learned counsel for the parties.

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

“That the instant writ application is being filed on behalf of the petitioner above named for issuance of writ/writs, order/orders, direction/directions to the respondents to release the vehicle of the petitioner i.e Tata Tiago car bearing Reg. No. BR09AL6331 bearing Engine No. REVTRNOBNYXM56803 and Chesis No. MAT626359MK-N76514 which has been seized in connection with Ballia P.S. Case no. 409 of 2021 dated 10.12.2021 which has been registered for the offences under sections 37 (b) (c) of Bihar Prohibition and Excise Act 2018.”



Allegation against petitioner is of driving the vehicle in a drunken condition and creating nuisance along with FIR named accused persons giving rise to Ballia P.S. Case No. 409 of 2021 instituted for the offences punishable under Section 37 (b) (c) of Bihar Prohibition & Excise Act, 2016.

As there is no recovery of illicit liquor from the seized vehicle, same is not liable for confiscation under Section 56 of the Excise Act and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and the Special Court (Excise) where the excise case is pending has jurisdiction to pass order for release of the vehicle.

The writ petition is disposed of with liberty to petitioner to file a petition under Section 451 of Cr.P.C. for release of the vehicle and the Special Court (Excise) where the excise case is pending is directed to dispose of such petition within 30 days from the date of its filing.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Ashwini/r-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.12.2022
Transmission Date	NA

