

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1530 of 2023

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Sangita Kumari @ Mrs. Sangita Kumari Wife of Shambhu Kumar, Resident of near P.H.E.D. Office, Shiv Kumari Pahar, Purab Tola, Kahalgaon, P.S.-Kahalgaon, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Bhagalpur.
4. The Senior Superintendent of Police, Bhagalpur, District- Bhagalpur.
5. The State House Officer, Tatarpur, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Indeshwari Prasad Mandal, Advocate
For the Respondent/s : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 02-02-2023 Petitioner has prayed for the following relief(s):-

“(i) For issuance of nature of Mandamus commanding the respondents as well as A.D.J.-XII-cum-Special Court of Excise-2, Bhagalpur to release the Maruti Dzire Car vehicle in favour of the petitioner bearing Registration No. BR10AJ-1360, Engine No.K12NP4025077 Chasis No. MBHCZ, FB3SMG124787 on sureties on the personal bond only which has been seized by the police connection with Special Excise Case No.4321/2022 arise out of Tatarpur P.S. Case No.334/2022 dated in 14.11.2022 of



District- Bhagalpur (Bihar) for the offence registered under sections 30(a)/37 of Bihar Excise Prohibition Act as well as Amendment Act 2022; and learned District Magistrate, Bhagalpur has not started any confiscation proceeding.

(ii) For any other relief/reliefs for which the petitioner is found entitled in the eye of law.”

Allegation is of recovery of 300 ml of illicit liquor 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 300 ml of liquor has been recovered from the vehicle, as such, it cannot be inferred that the vehicle was used for transporting/carrying illicit liquor, nor it can be presumed that recovered illicit liquor was kept for sale/purchase/ trade purpose and it appears that same was kept for personal consumption.

In the facts and circumstances of the case, **the District Magistrate/Confiscating Officer concerned** 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/her name and on furnishing adequate sureties to the satisfaction of District Magistrate / Confiscating Authority and undertaking.



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 is also at liberty to get his/her vehicle released on 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)

(Partha Sarthy, J)

shiv/Sujit

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