

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2824 of 2022

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Santosh Kumar Singh, S/o Udaynarayan Kushwaha, Resident of Village-
Gamhar Patti Khelu Rai, P.S.- Gamhar, District- Gajipur (U.P.) and also
Resident of 16B, Tiranga Path, Baridih, Jamshedpur, Baridih Colony, District-
East Singhbhum (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Buxar.
2. Sub-Divisional Officer, Buxar.
3. Superintendent of Police, Buxar.
4. Officer-in-Charge, Itachi Police Station Buxar.
5. Sri Rajeshwar Yadav S/o Late Sumeshwar Yadav R/o Village- Rajapur
(Naurang Rai ke Dera), P.S.- Simri, Dist- Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bachan Jee Ojha, Advocate
Ms. Daizy Kumari, Advocate
Mr. Anand Kumar Ojha, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP-7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-04-2023

The writ petition is filed seeking issuance of a writ of
certiorari quashing the impugned order dated 08.03.2021 in



Confiscation Case No. 153 of 2017 passed by the District Magistrate, Buxar, produced as Annexure-5. The District Magistrate by the said order confiscated the Bolero Jeep which has Registration No. UP-61AA-1514 of the petitioner, seized under Section 56 of the Bihar Prohibition and Excise Act, 2016 (hereinafter “the Act”). The vehicle was detained while it was proceeding for a marriage party on 18.06.2017 at 5.35 P.M. On inspection, there were four persons found in the vehicle in an intoxicated state and 750 ml. bottle of whisky with a small quantity of liquor and packet of fruit juice was recovered. The four persons were arrested and the seizure of the vehicle effected. A crime was registered at Itarhi P.S. as Case No. 121 of 2017 under various sections of IPC and Sections 37 (b) and 30(a) of the Act.

The petitioner, who is the owner of the seized vehicle, approached this Court with Cr.WJC No. 1180 of 2017 which was disposed of by Annexure-4 judgment. The vehicle was released in favour of the petitioner on execution of surety bond of Rs.12,00,000/- (twelve lacs) with further condition that there would be furnished two sureties of the like amount and that the petitioner shall not create any third party rights on the vehicle. The release was also interim and subject to the final



confiscation proceedings. The confiscation proceedings were initiated and proceeded with as Confiscation Case No. 153 of 2017.

The learned counsel for the petitioner asserts that he was not issued with any notice and hence was not afforded with an opportunity of hearing, thus violating the principles of natural justice. The learned counsel also stressed upon the fact that only little quantity of liquor was found in the vehicle and this could not have led to the seizure of the vehicle as such.

We have looked at Annexure-A-5 and we find that there was notice issued by Registered Post in the declared address of the owner of the vehicle, the acknowledgment of service of which was not received. Hence, there was a publication in a news paper based on which confiscation proceedings were initiated. The facts also *prima facie* disclose consumption of alcohol within the vehicle. There are admittedly statutory remedies of appeal and revision available to the petitioner, which has not been resorted to. It is for the petitioner to avail such remedies and also seek mitigation in so far as the small quantity seized, if it is permissible under the Act. The petitioner could also avail of the remedy of release of the vehicle after paying 50 per cent of the insured value, as



permitted by the statutory rules.

Leaving open such remedy, the writ petition would stand closed. No cost.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	13.04.2023
Transmission Date	

