

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5611 of 2023

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Manoj Kumar, Son of Dhiraj Ray, Resident of Village-Sahalullahpur,
Chakfarid, Police-Station-Bidupur, District-Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Registration and Excise, Patna.
2. The District Collector/Magistrate, Vaishali at Hajipur.
3. The Superintendent of Police, Vaishali at Hajipur.
4. The Deputy Superintendent of Police, Mahanar, Vaishali at Hajipur.
5. The S.H.O. Bidupur Police Station, Vaishali at Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Ban Bihari Singh, Advocate
For the Respondent/s : Mr.Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-05-2023

The petitioner is concerned with his vehicle (Bolero Pick-up) bearing Registration No. BR01GG3370, Chassis No. MA1ZN2TBKH1L81556, Engine No. TBH1L33139 which has been seized for the reason of alleged recovery of 769.350 litres foreign liquor for which Desari (Chandpura O.P.) P.S. Case No. 133 of 2022 dated 23.03.2022 has been registered.

Learned counsel for the petitioner submits that there is no confiscation proceedings initiated.

Learned Government Advocate, however, submits



that there is a confiscation case issued by the Sub-Divisional Magistrate (for brevity “SDM”), Mahnar, which is numbered as Confiscation Case No. 01 of 2023-24. The petitioner was also issued with a notice to appear before the SDM on 20.04.2023, which he has not availed. Learned counsel for the petitioner submits that the petitioner has not received the notice.

In any event, the petitioner would be entitled to appear before the SDM, Mahnar as expeditiously as possible with a certified copy of this judgment. If the confiscation proceeding has not been completed, the petitioner would be entitled to take all objections before the SDM. If it has been completed, he could also object to the completion on account of the notice having not been properly served, in which case, the SDM would consider the plea and from the records ensure that the notice was supplied properly. If notice has not been furnished, definitely, there should be a re-consideration. However, if confiscation proceedings are not completed then the said proceedings shall be completed after hearing the petitioner.

It is also made clear that the petitioner would be entitled to avail the remedy under Rule 12A of the Bihar Prohibition and Excise Rules, 2021, in which event, the SDM will consider whether the release of the vehicle would



jeopardize public interest, as is the discretion conferred under Rule 12A. If it is found that the vehicle can be released then the penalty shall be determined and on payment of such penalty, the vehicle shall be released.

The writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Anushka/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	16.05.2023
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