

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4993 of 2023

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Nimesh Chandra Thakur Son of Shri Satish Chandra Thakur Permanent Resident of Flat No.-D102, Charminar Apartment, Road No.2, Rajendr Nagar, P.S.-Kadam Kuan Dist.-Mumbai, Maharashtra

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise, Government of Bihar, Patna, Bihar.
2. The Principal Secretary, Department of Excise, Government of Bihar, Patna, Bihar.
3. The District Magistrate Cum Collector, Patna.
4. The Superintendent of Police Patna.
5. The Station House Officer, Digha Police Station, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-04-2023

The petitioner is concerned with the seizure of his vehicle (Maruti Ertiga ZDI BS IV model car) bearing Registration No. MH-O4-GJ-6192, Model Year-2014, Chassis No. MA3FLEB1S00233981 and Engine No. D135029797, which was seized on 22.01.2023. An F.I.R. was registered as Digha P.S. Case No. 63 of 2022 dated 22.01.2023. From the petitioner's vehicle 180 ml. foreign liquor was recovered. The petitioner apprehends confiscation proceedings for such



minimal quantity of liquor.

Learned Government Advocate states that according to his instructions, as of now the confiscation proceedings has not been initiated.

It is very clear from Rule 13 of the Bihar Prohibition and Excise Rules that the seizing authority has to forward the papers and the vehicle to the District Magistrate within thirty days from the detention so as to initiate the confiscation proceedings. Hence, if the seizing authority has not acted in accordance with Rule 13, necessarily the same will have to be done immediately and the District Collector on production of the certified copy of this judgment will immediately call for the records from the seizing authority. On receipt of the records, the District Magistrate-cum-Collector, Patna would release the vehicle on payment of a penalty of Rs. 20,000/- (Twenty thousand). We impose the penalty despite a provision for release under Rule 12A only because there is no discretion cast on the District Collector to determine the penalty which is prescribed as per the statutory rule to be 50 per cent of the ensured value of the vehicle. We also notice Rule 12B wherein for release of a property there were various factors to be considered in determination of the quantum of penalty one of which is the



quantity of the liquor recovered.

We see that in the present case a minimal quantity of liquor has been recovered. In such circumstances, we direct release of the vehicle on payment of a penalty of Rs. 20,000/- before the authority concerned. The District Collector shall ensure that on payment of penalty the vehicle shall be released immediately. On payment of the penalty, as directed hereinabove, the District Collector would order the release of the vehicle and absolve the vehicle of the confiscation proceedings.

The writ petition is disposed of.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
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