

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5315 of 2023

Vipin Kumar @ Vipin Kumar Yadav, Son of Markandey Kumar, Resident of Village+ Post-Lediha, P.S.-Dulhapur, Baragaw, District-Gazipur, State-Uttar Pradesh, Pin Code-275202.

... .. Petitioner/s

Versus

1. The State of Bihar through the Excise Commissioner, Excise Department, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Collector cum District Magistrate, Buxar.
4. The Superintendent of Police, Buxar-Bihar.
5. Dilip Kumar Singh, Investigating Officer, Excise Police Station (Buxar).
6. The S.H.O. Excise Police Station, Buxar (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Akash Shankar, Advocate
For the Respondent/s : Mr.Kumar Manish (SC-5)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-05-2023

The petitioner is aggrieved with the seizure of his vehicle (Mahindra Bolero Pick Up) bearing Registration No. UP61T-7137, seized on recovery of 1500 litres of Hind Fruit Beer for which Buxar Excise P.S. Case No. 56 of 2023 was registered on 19.01.2023.

It is submitted that the alcoholic content in the goods recovered was less than 0.4% V/V, as has been analyzed in the Forensic Laboratory.



Learned Advocate General submits that this Court has already held that any drink having less than 0.5 V/V would not come within the definition of an alcoholic drink. The same has been upheld by the Hon’ble Supreme Court in Petition(s) for Special Leave to Appeal (Crl.) No(s). 600/2018 (State of Bihar & Ors. v. M/s Smart India Marketing Proprietorship & Anr.).

In the above circumstances, we are of the opinion that no confiscation proceedings can be taken against the petitioner. We hence, allow the writ petition directing the vehicle to be handed over to the petitioner after verifying the ownership as soon as the copy of this judgment is produced before the seizing authority or the confiscating authority. It is also made clear that the article(s) seized along with the vehicle shall also be returned to the petitioner along with the vehicle.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	09.05.2023
Transmission Date	

