

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6172 of 2023

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Madan Lal, Son of Shiv Balak, Resident of Village Dumari Adda, Police Station Doriganj, District-Saran at Chapra

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise, Government of Bihar, Patna.
2. The Additional Chief Secretary, Bihar, Patna.
3. The Excise Commissioner, Saran, Chapra.
4. The District Magistrate, Saran at Chapra.
5. The Superintendent of Police, Saran at Chapra.
6. The Excise Superintendent, District-Saran at Chapra.
7. The Officer In Charge Cum Sub Inspector, Police Station Manjhi, District-Saran at Chapra.
8. The Investigating officer, Police Station Manjhi, District-Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kumar Yadav, 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 : 28-04-2023

1. The petitioner is aggrieved with the seizure of his vehicle bearing Registration No. BR01PM-3529, Chassis No. MDHJBAAD0M2710652, Engine No.HR12841110D. An FIR was registered on 10.05.2022 as Manjhi P.S. Case No. 160 of 2022, on seizure of the vehicle for reason of recovery of 200 ml of country made liquor from the vehicle.

2. The provision under Rule 12A of the Bihar Prohibition



and Excise Rules, 2021 (hereinafter referred to as "Rules") speaks of a discretion conferred on the District Collector for release of the vehicle, if the offence is found to be one not serious enough to jeopardize public interest. It is also provided in Rule 12A of the Rules that for such release being effectuated, a penalty of 50 percent of the insured value has to be imposed. We see from Rule 12B of the Rules, an analogous provision with respect to the seizure of property, from which liquor is recovered, that there are various factors which would regulate the discretion of District Collector in determination of penalty, which also includes the small quantity of liquor seized. Such a discretion is not available in Rule 12A of the Rules and it speaks of release only on deposit of 50 percent of the insured value.

3. We are of the opinion that the said provision is harsh and would result in arbitrariness at the hands of the District Collector and may even curtail the discretion which is sought to be conferred by the Rule Making Authority, since 50 percent of the insured value has also been directed to be imposed, at the minimum.

4. In the above circumstances, we are of the opinion that the vehicle, considering the minimal quantity recovered, can be released on deposit of Rs. 20,000/-. Certified copy of this



judgment shall be produced within two weeks before the District Collector and within two weeks from then if the penalty as provided herein is deposited, the vehicle shall be released. If the penalty is not satisfied, the District Collector shall continue with the confiscation proceedings.

5. Writ application is disposed of.

6. The above direction shall apply if the vehicle has not already been auctioned.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Sumit/Shashank-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.05.2023
Transmission Date	NA

