

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.805 of 2023

Arising Out of PS. Case No.-122 Year-2023 Thana- JAHANABAD District- Jehanabad

Rajeev Ranjan Kumar, Son of Radhe Shyam, Resident of village - Ganiyari,
P.O. - Pariyari, P.S. - Kinjer, Distt. - Arwal.

... .. Petitioner

Versus

1. The State of Bihar through its Secretary, Excise and Prohibition Department,
Government of Bihar
2. Commissioner, District – Jehanabad.
3. Collector – Jehanabad.
4. Superintendent of Police, Jehanabad.
5. Station House Officer, Jehanabad Town Police Station, Distt. - Jehanabad.

... .. Respondents

Appearance :

For the Petitioner/s : Ms. Ritika Rani, Advocate
For the Respondent/s : Mr. Kumar Manish, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 24-11-2023 Heard learned counsel for the petitioner and the State.

2. This writ application has been filed seeking the
following reliefs:-

“a) For commanding the respondents especially
respondent no. 4 to release the 4-wheeler vehicle
of the petitioner SELTOS (KIA) registration no.
BR56 C 3382, glacier white pearl color which
has been seized in Jehanabad Town P.S. Case
No. 122/2023 dated 09/02/2023 under Section
279, 427 of Indian Penal Code, 1860 and section
30(a)/37 of Bihar Prohibition & Excise
Amendment Act 2022.

b) Also, for commanding the state respondents
to pay Rs.5 lakh compensation for illegal seizing
the vehicle of the petitioner in which no
incriminating articles and alcohol has been



seized in Jehanabad Town P.S. Case No. 122/2023 dated 09/02/2023 for which the entitled.

c) To hold and declare the seizure of registration no. BR 56 C 3382 in Jehanabad Town P.S. Case No. 122/2023 dated 09/02/2023 under Section 279, 427 of Indian Penal Code, 186 and Section 30(a)/37 of Bihar Prohibition & Excise Amendment Act 2022 is malafide, unwarranted, illegal and bad in eyes of law.

d) Also for necessary relief/reliefs, order/orders, direction/directions for which the petitioner is entitled in the eye of law as well as on facts of the case.”

3. Learned counsel for the petitioner submits that the vehicle in question has been seized in connection with Jehanabad Town P.S. Case No. 122 of 2023 dated 09.02.2023 registered under Sections 279 and 427 of the Indian Penal Code as also under Section 30(a)/37 of the Bihar Prohibition and Excise Act, 2022. It is submitted that no incriminating article has been recovered from the vehicle and on bare perusal of the FIR, it would appear that from the vehicle in question, no illicit liquor was recovered and in this regard, there is a specific statement in the FIR itself.

4. It is submitted that the case of the petitioner is squarely covered by the Hon’ble Division Bench of this Court in the case of **Diwakar Kumar Singh versus the State of Bihar and Others** reported in **2018 (3) PLJR 403**. In the said judgment, the Hon’ble Division Bench has held that if no liquor was found from the vehicle or that it was not used for transportation/carriage of liquor, it shall be



mandatory for the confiscating authority to decide the issue as to whether Section 56 of the Bihar Prohibition and Excise Act will apply before passing any order on the confiscation proceeding.

5. Learned counsel for the State submits that proposal for confiscation has already been sent to the District Magistrate, Jehanabad, therefore, in view of the judgment of the Hon'ble Division Bench of this Court, it is always open to the petitioner to file an appropriate application before the District Magistrate, Jehanabad for release of the vehicle and to drop the confiscation proceeding.

6. Having regard to the submissions noted hereinabove, this Court is of the considered opinion that the petitioner, if so advised, may appear in the confiscation proceeding before the District Magistrate, Jehanabad and take appropriate steps in the light of the judgment of the Hon'ble Division Bench of this Court in the case of **Diwakar Kumar Singh** (supra). If such an application is filed, the District Magistrate, Jehanabad shall consider the same and pass an appropriate order in accordance with law within a reasonable period keeping in view the judicial pronouncements of this Court on the subject.

7. This application stands disposed of.

(Rajeev Ranjan Prasad, J)

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