

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5971 of 2023

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Rupa Singh, wife of Monu Kumar Singh, Resident of Sri Nagar Colony, Road
No. 1A North of A.G Colony Park, Ashiyana Nagar, P.S. Shastrinagar, District
Patna 800025

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Department of Excise Bihar,
Patna.
2. The District Collector, Patna, District- Patna.
3. The Rural Superintendent of Police Patna, District- Patna.
4. The S.H.O of Gaurichak Police Station Patna, District- Patna.

... .. Respondent/s

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Appearance :

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

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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. BR01CZ-0005, Chassis No. MAT617011GNF02818, Engine No. VARICORO7FTYJ09732. An FIR was registered on 02.12.2022 as Gaurichak P.S. Case No. 805 of 2022, on seizure of the vehicle for reason of recovery of 2.680 litres of IMFL from the vehicle.

2. Learned counsel for the petitioner points out that by Annexure-3, the vehicle has been sent by the Seizing Authority to the District Collector, but no confiscation proceedings have



been taken till now.

3. 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.

4. 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 confined by the Rule Making Authority, since 50 percent of the insured value has also been directed to be imposed, at the minimum.

5. 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 deposited, the District Collector shall continue with the confiscation proceedings.

6. Writ application is disposed of.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Sumit/Shashank-

AFR/NAFR	NAFR
CAV DATE	NA
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