

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6171 of 2023

=====

Priyanka Kumari Daughter of Gauri Shankar Prasad Gupta, R/o Village-Dihutola, P.S-Madhuban, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Excise Commissioner, Excise Department, Government of Bihar, Patna.
2. The Director General of Police, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, East Champaran at Motihari.
4. The Superintendent of Police, East Champaran at Motihari
5. The Station Head officer, Pipra, Police Station, District- East Champaran at Motihari.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Shambhu Narayan Singh, Advocate
		Mr. Suraj Tiwari, 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 : 28-04-2023

1. The petitioner is aggrieved with the seizure of his vehicle bearing Registration No. BR06AV-8997, Chassis No. MA3EUA61S00838581, Engine No. F8DN5604871. An FIR was registered on 24.02.2023 as Pipra P.S. Case No. 70 of 2023 on seizure of the vehicle for reason of recovery of 750 ml. of IMFL from the vehicle.

2. Learned counsel for the petitioner submits that 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 that would jeopardize public interest, if the vehicle is released. 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 conferred 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 satisfied, 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
Uploading Date	01.05.2023
Transmission Date	NA

