

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8055 of 2023

Prabhu Kumar Singh Son of Surendra Bhagat, Resident of Village- Hathua
Bujurg, P.S.- Mirganj, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The Confiscating Officer-cum-District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Station House Officer (S.H.O.), Mirganj Police Station, Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vyas Kumar Mishra, Advocate
For the Respondent/s : Mr. Vivek Prasad GP 7

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 26-06-2023 The petitioner is concerned with his car bearing

Regn. No. BR-28M-0149 which was seized in connection with

Mirganj P.S. Case no. 61 of 2023. The extract of the registration

book of the said vehicle is produced as Annexure-2 series.

It is the petitioner's contention that the petitioner had no
knowledge as to what was being carried in the vehicle since he
handed over the vehicle to his driver who might have misused it.
Later, he came to know that on 28.02.2023, on search being
conducted, from his Maruti Suzuki Swift car bearing Reg. No.
BR-28M-0149 there was a recovery of 230.400 ltrs of foreign



liquor, which recovery was in presence of independent witnesses. The seizure list of the recovered articles was prepared and the vehicle was also seized pursuant to which Annexure-1 F.I.R. was registered.

It is the petitioner's case that the vehicle seized was that of the petitioner as revealed from the Engine number and Chassis number. It was not in the possession of the petitioner when the contraband articles were recovered from it. The F.I.R. registered as Annexure-1 clearly indicates the transportation of foreign liquor alleged, was not with the connivance of the petitioner. The petitioner has also stated the engine number and chassis number of the vehicle, as evident from Annexure-2, to assert that the petitioner is the owner of the vehicle.

We notice that Rule-12A of the Bihar Prohibition And Excise Rules, 2021 has been amended giving discretion to the District Collector to release the vehicle in certain circumstances, especially when the vehicle owner is found to be not involved in the excise crime of transportation of liquor. The said provision is as per Rule-12A which stood amended as on 31.05.2023 in which further discretion is conferred on the District Collector to release the vehicle, if it does not infringe public interest, after imposing a penalty the minimum of which



is 10% of the insured value.

In the above context, we are of the opinion that the petitioner could be directed to approach the District Collector with an application under Rule-12A which would be considered by the District Collector and release effected, if so ordered.

If the petitioner approaches the District Collector, Gopalganj/Respondent No. 2, within a period of two weeks, the District Collector shall immediately, within a period of three weeks therefrom, pass orders in the application after verifying the genuineness of the claim made by the petitioner.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Prakash/ Avinash

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