

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8421 of 2023

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Naveen Kumar Kushwaha Son of Naresh Kumar Kushwaha R/o- Room No. 225, 2nd Floor, Vasant Apartment Near Niryat Bhawan, New Delhi, P/S- Vasant Vihar (South) A/P Rakshapuram 11203- B, P.S.- Ganganagar, Merut (U.P.).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Excise, Patna.
2. The District Magistrate, Saran at Chapra.
3. The Superintendent of Police, Saran at Chapra.
4. The O/c, Rivilganj Police Station, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP 7)

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

2 20-06-2023 The petitioner is concerned with his car bearing Regn. No. UP 15 CV 2656 which was seized in connection with Rivilganj Police Case No.393 of 2022. The extract of the registration book of the said vehicle is produced as Annexure-1.

It is the petitioner's contention that the petitioner had purchased the car and had kept it with him at his residence. The aforesaid car was stolen from Basant Apartment, the residence of the petitioner on 13.05.2022. The petitioner immediately lodged F.I.R. No.013030/2022 on 13.05.2022 before the Vasant Vihar Police Station, South West Delhi. The



petitioner had no information about the said vehicle after the F.I.R. was registered.

Later, it was revealed that on 14.11.2022 an I-20 car with Regn. No. BR 01 EL 9980 was found in an abandoned condition at village Manpura. On search, there was a recovery of 80.130 litres of foreign liquor of different brands, 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-3 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-2 before the Vasant Vihar police station clearly indicates the theft and 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-1 of the registration book, 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, Saran at Chapra/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)

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