

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8455 of 2023

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Dhamesh Kumar S/o Sukeshwar Sah Resident of Village- Ward No. 14,
Mohandih Banchauri, P.S.- Dumra, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar Prohibition and Excise Department, Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Officer in charge of Kateya Police Station, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Harendra Prasad
For the Respondent/s : Mr.Kumar Manish (Sc5)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 28-06-2023

In the instant petition, the petitioner has prayed
for the following relief(s):-

“(a) For issuance of appropriate writ in the nature of mandamus & certiorari commanding and directing the respondent authorities to release to release the Mahindra Bolero Pik-up of the petitioner bearing Reg. no. BR06GD5066 and having Chesis no. MAIZNTBKJIK87622, Engine no. TBJIK91977, seized by Kateya police, Gopalganj in connection with Kateya P.S case no. 73/23 registered u/s 30(a) of Bihar excise act 2016, in favour of the petitioner or his representative.



b. For the issuance of any other relief / reliefs to which the petitioner may found entitled to in the facts and circumstances of the case in favour of the petitioner.”

2. For issuance of Writ of Mandamus, two ingredients are mandatory, namely, demand/representation or application before the competent authority. The other ingredient is that public authority must have statutory duty to consider the grievance of the petitioner. In the present case, first ingredient is not forthcoming.

3. Learned counsel for the petitioner, on instruction, submitted that the petitioner is stated to have submitted a representation or application in support of his prayer made in the present writ petition. However, the same has not been placed on record.

4. At this stage, learned counsel for the respondents submitted that notice was issued to the petitioner on 12.05.2023. In this regard, the petitioner is permitted to submit representation before the authority.

5. Insofar as release of seized vehicle is concerned, the petitioner is hereby directed to submit an application before the competent authority. The competent authority is hereby directed to examine as to whether the



petitioner is entitled to release of the seized vehicle provisionally, subject to confiscation proceedings or not, subject to furnishing bank guarantee etc. In the event of making any application for release of seized vehicle before the competent authority, the competent authority is hereby directed to pass suitable interim order in the pending confiscation proceedings within a reasonable period of two days from the date of such application or representation for release of seized vehicle.

With the above observation, the present petition stands disposed of.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.07.2023
Transmission Date	

