

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10249 of 2022

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Golden Kumar Singh, son of Kameshwar Singh, resident of village Devjara Manika, Post Manika, P.S. Madanpur, District Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The District Magistrate, Aurangabad (Bihar).
3. The Additional Collector Cum the competent Officer Excise Aurangabad.
4. The Officer-in-charge Madanpur Police Station, District Aurangabad (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailesh Kumar Singh, 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 : 02-05-2023

The petitioner is aggrieved with the seizure of his vehicle bearing Registration No. BR-26U-4626, which was seized in connection with Madanpur P.S. Case No. 184 of 2021 under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018, in which the confiscation proceeding has been initiated and concluded by Annexure-D, produced along with counter affidavit. It is the case of the petitioner that his vehicle or himself is not at all involved in the crime and that the vehicle was seized much later to the F.I.R registered.



2. We have looked through the F.I.R and also its translated copy. We see that the A.S.I., who registered the F.I.R, had taken a Mahal Chaukidar along with him on information received of a person travelling in a motorcycle with wine. On reaching a bridge, it is alleged that they saw a person, who threw away the rubber tube, which was attached to the motorcycle, and fled with the motorcycle. The number of the motorcycle has not been recorded in the F.I.R. The F.I.R further proceeds to say that Mahal Chowkidar identified the person, who had run away, as Golden Kumar Singh, son of Kameshwar Singh and on such information, the vehicle was seized from the house of the alleged accused. The seizure list was of 11.08.2021, as revealed from Annexure-A while the F.I.R was of 28.07.2021.

3. We are not convinced that the vehicle is liable to seizure and confiscation, especially since there was no recovery made from the vehicle and the story as alleged in the F.I.R if credible, the police would have recorded the registration number of the motorcycle. The identification of the person who fled away from the scene, is also said to be made by the Mahal Chowkidar and not an independent witness. The seizure was made much later on the basis of the identification made by the Mahal Chowkidar, which cannot be relied on.



4. We are of the opinion that there can be no confiscation proceeding against the vehicle of the petitioner. Annexure-D is, hence, set aside and the vehicle is directed to be released.

5. Petitioner shall appear before the District Collector, who shall release the motorcycle unconditionally to the petitioner, after verifying the ownership.

6. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

aditya/-

AFR/NAFR	NAFR
CAV DATE	N/A
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