

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11056 of 2023

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Jagdish Sudam Rathour @ Jagdish Sudam Rathod @ Rathod Jagdish Sudam
Son of Sudam Rathour, Resident of Rajdehre, Rohini, Jalgaon, Maharashtra,
PIn-424108. At Present Resident of Village-Mordad Tanda Tal Nila Dhule,
Maharashtra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate-Cum-Collector, Saran.
3. The Superintendent of Police, Saran.
4. The Inspector, Manjhi Police Station.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Swami Parth Sarthy, Advocate
For the Respondent/s	:	Mr.Vivek Prasad (GP7)
		Ms. Supragya, AC to GP7
		Ms. Roona, AC to GP 7

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

4 06-09-2023 In the instant writ petition, petitioner has prayed for
the following relief(s):-

“(i) For issuance of a Writ in the nature of Certiorari or any other appropriate Writ, Order or Direction for quashing or setting aside the Order dated 25.04.2023 passed in Manjhi P.S. Case No. 99/2023 by the learned 2nd Spl. Excise Judge, Saran, whereby and whereunder he has been pleased to reject the petition filed for release Eicher PRO Truck bearing Registration No. MH-18BZ-0410 dated 07.02.2023, bearing Chassis No. MC2CAMRC0PA085687 and Engine No. E42CDPA421538 seized in Manjhi P.S. Case No. 99/2023 for alleged offences under Section 30(a)/ 32(i) (iii)/36/41(i)(ii) of Bihar Prohibition and Excise Act.

(ii) For direction to the Respondent Authorities for provisional release of the above mentioned Eicher Pro Truck in favour of the petitioner during the pendency of the Manjhi P.S. Case No. 99/2023, pending trial in



the Court of 2nd Spl. Excise Judge, Saran.

(iii) For this Hon'ble court may further adjudicate and hold that pre-trial detention of the above mentioned vehicle of the petitioner by the respondent authorities under Bihar Prohibition and Excise Act is illegal in the eye of law and also the petitioner is entitled for provisional release of the above mentioned vehicle in his favour since the petitioner is the real owner of the said vehicle and also in view off the Judgement of this Hon'ble Court passed in various similarly situated cases like the case of the petitioner.

(iv) To grant any other relief or reliefs under the facts and circumstances of the case to which the petitioner is entitled."

2. Petitioner has assailed the special court order dated 12.05.2023. Further, he has sought for a direction to release the subject matter of motor vehicle in Manjhi P.S. Case No. 99 of 2023.

3. The present writ petition is not maintainable insofar as the first prayer is concerned in the light of Section 89 of the Bihar Prohibition and Excise Act, 2016. It is necessary to reproduce Section 89. Section 89 reads as under:-

"89. Appeal. - Any person aggrieved by any order of the Special Court may, within forty five days from the date of order, prefer an appeal in the High Court."

4. The aforementioned statutory provision provides for appeal before this Court and not writ petition. Therefore, the present writ petition is not maintainable.

5. Accordingly, the first prayer stands rejected on the ground that writ petition is not maintainable. Reserving liberty to



the petitioner to invoke remedy in filing appeal before this Court.

6. Insofar as second prayer is concerned, there is no representation or application before the competent authority so as to direct the concerned authority to examine the grievance of the petitioner in the light of Rule 12(A) of the Bihar Prohibition and Excise Rules, 2021. In this regard, the petitioner is at liberty to submit a detailed representation before the concerned authority under Rule 12(A) of the Bihar Prohibition and Excise Rules, 2021 within a period of two weeks from the date of receipt of a copy of this order. In the event of filing of such representation/application, the concerned authority is hereby directed to examine the petitioner's grievance stated in the representation/application within a period of four weeks from the date of submission of petitioner's representation/application.

7. Accordingly, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Balmukund/
Ashish/-

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