

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17583 of 2022

Sanjay Kumar S/o Bino Yadav, resident of Village- Ward No. 14, near School,
Keshbe, P.S.- Barauni, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The Collector-cum- District Magistrate, Samastipur.
3. The Superintendent of Police, Samastipur.
4. The Dy. S.P., Samastipur.
5. The Officer- Incharge, Samastipur Town P.S., District- Samastipur.
6. Yashwant Kumar, son of Lakshman Mahto, resident of Village- Kewas Jagir, P.S.- Muffasil, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar Singh, Advocate
For the Respondent/s : Mr.Vivek Prasad GP-7

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

Date : 02-02-2023

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

- (i) For issuance of any appropriate writ or writs, rule or direction specially in the nature of mandamus directing the respondent District Magistrate Samastipur to release the vehicle bearing its Registration No. WB37E-9331 (Oil Tanker) which has been seized in connection with Samastipur Town P.S. Case No. 37/2021 dated 15.02.2021 alleged offences under sections 279, 337, 427 of the IPC and Section 37(c) of the Bihar



Prohibition and Excise Act (Amendment) Act.

(ii) For issuance of any appropriate writ or writs, rule or direction especially in the nature of mandamus directing the respondent District Magistrate, Samsatipur to release the seized vehicle of the petitioner in the light of certain provisions amendment in 2022 in Bihar Prohibition and Excise Act as the petitioner being owner of vehicle in question is ready to deposit the alleged penalty accordance with law.

(iii) For issuance of any appropriate writ or writs, rule or direction as your Lordships may deem fit and proper to the fact and circumstance es of the case as well as for which the petitioner may be found entitled there too.”

FIR stands registered under sections 279, 337, 427 of the Indian Penal Code and Section 37(C) of Bihar Prohibition and Excise (Amendment), Act (hereinafter referred to as “the Act”).

Undisputedly, in so far as the proceeding under the Prohibition Act is concerned, the vehicle could not have been seized. As such, no direction for release of the vehicle under the said provision can be issued.

However, since the vehicle also stands seized under the penal laws of the land, it is only appropriate that the petitioner file an appropriate application before the competent court dealing with the FIR in Samastipur Town P.S. Case No.



37 of 2021 for release of the vehicle.

It is the petitioner’s case that despite the petitioner having moved certain application, the court has not passed any order.

If that were so, we direct the said application to be considered and decided expeditiously and preferably within a period of two weeks from the date of production of a copy of this order.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Rajiv/-Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

