

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.294 of 2023

Arjun Prajapati S/o-Ramchandra Prajapati, R/o-Mohalla Mahavir Nagar, P.S.-
Aurangabad (Town) Dist.-Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Govt. of Bihar, Patna.
2. The Principal Secretary Excise Department Govt. of Bihar, Patna,
3. The District Magistrate Aurangabad (Bihar).
4. The Superintendent of Police Aurangabad (Bihar).
5. The SHO Amba Police Station Aurangabad (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar Singh, Advocate
For the Respondent/s : Mr. Vivek Prasad, GP7

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 02-02-2023

Heard learned counsel for the parties.

The petitioner has filed the instant application for the following reliefs:

“(I) For insurance of a writ in the nature of certiorari for quashing the order dated 22.01.2022 passed by special Judge Excise Ist Aurangabad in connection with Amba P.S. case No.21/2021 whereby and hereunder the application filed by the petitioner for release of Scorpio vehicle bearing Registration No.BR26J2845 Chesis No. MAITA2TDKF5M 19520, Engine No.TDF4L77494 has been rejected (Annexure-5)

(ii) For direction to the respondent to release the



above mentioned Scorpio vehicle.

(iii) For any other relief (s) for your Lordships may deem fit and proper in the facts and circumstances of the instant case.”

As per the prosecution case (Amba P. S. Case no.21 of 2021 registered under section 30(a) of the Bihar Prohibition and Excise Act, 2016) on the vehicles being stopped and searched, it is stated that large quantity (2800 litres) of liquor was recovered from the truck bearing Registration no. JH-02H-2964 while the Scorpio vehicle was accompanying the truck.

It is submitted on behalf of the petitioner that the petitioner happens to be the registered owner of the Scorpio vehicle bearing registration no. BR-026J-2845 which as per the FIR was being driven by the driver Baban Kumar Singh. It is submitted that the petitioner has absolutely no concern with the truck from which the alleged recovery as per the FIR is said to have taken place. Even as per the prosecution case, no illicit liquor was recovered from the petitioner's vehicle or from the driver of the vehicle. It is further submitted that in view of the facts of the case, the petition dated 19.1.2022 which was filed by the petitioner, registered owner of the vehicle for release of the same was erroneously rejected by order dated 22.1.2022 passed in connection with Amba P.S. Case No.21 of 2021 (GR No.240 of 2021/Trial No.720 of 2021) by the learned Special Judge, Ex-



cise 1st , Aurangabad.

In the facts and circumstances of the case, the District Magistrate/Confiscating Officer concerned is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle on production of ownership and registration papers with respect to vehicle in question in his/her name and on furnishing adequate sureties to the satisfaction of District Magistrate / Confiscating Authority and undertaking.

The release shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above, which would however be subject to finalization of the confiscation proceeding.

Petitioner is also at liberty to get his/her vehicle released on payment of penalty in terms of Rule 12(A) inserted by amending Bihar Prohibition and Excise Rules, 2021.

With said observation and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Bibhash

AFR/NAFR	
CAV DATE	
Uploading Date	3.2.2023
Transmission Date	

