

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.277 of 2023

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Sanjit Kumar Sahu, Son of Lakhan Prasad Sahu, Resident of Village- Khora
Gumla, Police Station- District- Gumla (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise, Prohibition and Registration Department, Government of Bihar, Patna.
2. The Collector cum District Magistrate, Gaya, District- Gaya.
3. The Senior Superintendent of Police, Gaya, District- Gaya.
4. The Officer In Charge of Sherghati (Dobhi) Police Station, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Birendra Kumar, 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 ORDER

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

4 03-04-2023 Heard learned counsel for the petitioner and learned
State counsel.

2. The vehicle, in question (white *Bolero* pickup van),
was seized by the police on 11.06.2017 on alleged recovery of
1872 litre country wine having label of Jharkhand Excise. Two
persons were arrested.

3. The writ petitioner has come forward with a case
that the vehicle, in question, belongs to him and was stolen on
21.02.2017 for which F.I.R. was lodged bearing *Gumla* Police
Station Case No. 70 of 2017, registered on 22.02.2017.



4. The learned counsel for the petitioner submits that since the vehicle in question was stolen long before, it was seized with the alleged illicit liquor, the same should be released in his favour. It is his submission that the same is lying in open air after its seizure on 11.06.2017, now for little less than 6 years.

5. Learned counsel for the petitioner has placed reliance on decision of this Court in the case of ***Awdhesh Kumar Tiwari vs. the State of Bihar & Ors.*** passed in **C.W.J.C. No. 15405 of 2021**, wherein the petitioner was claiming release of his vehicle, which was seized on the allegation of transporting illicit liquor, after the same was stolen from the petitioner therein. He submits that the facts are similar and that the relief, which was granted in favour of the petitioner of C.W.J.C. No. 15405 of 2021, may be granted to the petitioner also.

6. Learned counsel for the State is present. He has no objection to disposal of the writ petition in terms of the order passed in C.W.J.C. No. 15405 of 2021.

7. The Court would find from copy of the order passed in C.W.J.C. No. 15405 of 2021 that the same was disposed of with the following directions:

"In the facts and circumstances of the case, **Sub-**



divisional Magistrate, Siwan, Sadar,/Confiscating Officer, Siwan, is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was stolen and subsequently recovered and seized by the police in excise case on production of ownership and registration papers with respect to vehicle in question in his name with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

(i) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.

(ii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when required.

(iii) Prior to release of the vehicle, a Panchanama would be prepared wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama.

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.

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

8. The instant petition is disposed of in the same



terms, and with the same observations and direction.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

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