

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.563 of 2023

United Wines through its General Manager Argha Kumar Bhowmick At
493/B/34 G.T. Road (South) P.S. and P.O. Shibpur, Howrah, West Bengal,
Kolkata - 711102.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Excise and Prohibition Department, Bihar, Patna.
2. Additional Chief Secretary, Excise and Prohibition Department, Bihar, Patna.
3. Excise Commissioner, Excise and Prohibition Department, Bihar, Patna.
4. The District Magistrate, Buxar.
5. Superintendent of Police, Buxar.
6. Station House Officer, Rajpur Police Station, District - Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma, Advocate
For the Respondent/s : Mr. Kumar Manish (SC-5)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 09-05-2023

The petitioner seeks release of 351 (1,521.60 litres)
cartoons of foreign liquor seized in connection with Rajpur P.S.
Case No. 342 of 2022 for the offences punishable under Section
30(a) of the Bihar Prohibition and Excise Act.

2. It is the petitioner's contention that he is a bona fide
dealer in liquor situated outside the State of Bihar, where there
is no such prohibition. The consignment of liquor was being
transported under an invoice containing details of the truck,



which invoice was generated on 23.11.2022. Under the said invoice, the liquor in question was being transported from New Delhi to Howrah in the State of West Bengal.

3. As per the petitioner's case, the truck entered the State of Bihar at Kaimur, where GPS locking was affixed on 29.11.2022 at 07:15 PM. The receipt of GPS locking shows that the vehicle was to leave the State of Bihar through check-post at Dobhi. However, soonafter the GPS locking was done, the vehicle was seized near Kaimur, at Buxar itself.

4. Learned counsel for the petitioner submits that the petitioner's consignment of liquor originated at a genuine business premises and was being carried through the State of Bihar after GPS locking of the same. The liquor was thus being validly transported by a genuine dealer and therefore it is not liable to seizure.

5. The learned State counsel, on the other hand, submits that the illicit liquor, in question, was seized from a place which was not on the route from Kaimur to Dobhi. From the FIR, it is obvious that illicit liquor from the truck was being unloaded in the village Rupa Pokhar, which is off the route, as indicated in the alleged receipt showing GPS locking of the vehicle in question.



6. The FIR clearly records that the liquor was being unloaded. The plea of genuine transit is therefore unsustainable in view of the allegations made in the FIR based on which criminal prosecution has been initiated after seizure of the truck in question. In fact in the writ petition itself, deviation from the route is admitted by the petitioner in paragraph 8. The petitioner has also not placed on record a transit pass issued as per Rule 7 of the Bihar Prohibition and Excise Rules, read with Section 14 of the Bihar Prohibition and Excise Act.

7. From the facts and circumstances noted above and submissions of the parties, we are of the opinion that petitioner has not been able to make out a case for release of the liquor by invoking extraordinary discretionary writ jurisdiction under Article 226 of the Constitution of India.

8. The writ application is dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.05.2023.
Transmission Date	NA

