

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.377 of 2023

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1. Sanjay Kumar Son of Late Narayan Das, resident of Village - Belwar, Panchayat- Katarmala, Police Station - Goraul, District - Vaishali at Hajipur.
 2. Rishi Pandey, son of Braj Kishore Pandey, resident of village - Pirapur Mathura, Police Station - Goraul, District - Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
2. The Principal Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
3. The District Magistrate, Vaishali at Hajipur, District - Vaishali at Hajipur.
4. The Superintendent of Police, Vaishali at Hajipur, District - Vaishali at Hajipur.
5. The Station Head Officer, Goraul Police Station, District - Vaishali at Hajipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Awnish Kumar, Advocate
For the Respondent/s : Mr. Kumar Manish (SC 5)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 02-02-2023

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-



“(1) For issuance of writ in the nature of MANDAMUS for commanding and directing the respondents to release the Wagon R vehicle bearing Registration no. BR-31-AM-0583, Chassis No. MA3JMT31SLA257372, Engine No.K10BN8327904 and Hero Glamour Motorcycle bearing Registration No BR-31-AC-8372, Chassis No.MBLJAR014J9B02237. Engine No.JA06EHJ9B07571 in favour of the petitioner no.1 and Splendor Plus Motorcycle bearing Registration No.BR-31V-0737 Chassis No.MBLHA10CGGHD66586, Engine No. HA10ERGHD66958 in favour of the petitioner no.2 during pendency of the confiscation proceeding as the same has been seized in connection with Goraul P.S. Case No. 452 of 2021 dated 15.11.2021 registered under Sections 30 (a) of the Bihar Prohibition and Excise Act 2018.

(II) For issuance of any other appropriate writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case”

Allegation is recovery of one bottle of 375 ml of Royal Party Malt Whisky and 5 litres gallon containing liquid substance with bad smell have been recovered from the seized Wagon-R vehicle bearing Registration no. BR-31-AM-0583 which belongs to petitioner No. 1 Sanjay Kumar, and the seized Splendor Plus Motorcycle bearing Registration No.BR-31V-0737



belongs to petitioner No. 2.

Petitioner No. 1 claims to be the owner of the seized Wagon-R vehicle bearing Registration no. BR-31-AM-0583 and petitioner No. 2 claims to be the owner of the seized Splendor Plus Motorcycle bearing Registration No. BR-31V-0737.

It is further submitted that a meagre quantity of one bottle of 375 ml of Royal Party Malt Whisky and 5 litres gallon containing liquid substance with bad smell have been recovered from the seized Wagon-R vehicle bearing Registration no. BR-31-AM-0583 and no liquor was recovered from the seized Splendor Plus Motorcycle bearing Registration No. BR-31V-0737, as such, it cannot be inferred that the vehicles were used for transporting/carrying illicit liquor, nor it can be presumed that recovered illicit liquor was kept for sale/purchase/ trade purpose and it appears that same was kept for personal consumption.

In the facts and circumstances of the case, **the District Magistrate/Confiscating Officer concerned** is directed to provisionally release the aforesaid vehicles of petitioners after due identification of ownership of the vehicles on production of ownerships and registration papers with respect to vehicles 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.

Petitioners are 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)

Spd/-Sujit

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