

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6260 of 2024

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Ranjeet Prasad Son of Ajay Saw Resident of Village- Aranda, P.S.- Obra,
District- Aurangabad, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Director general of Police, Bihar, Patna.
2. The Inspector General of Police, Patna, Bihar.
3. The District Magistrate, District- Rohtas, Bihar.
4. The Superintendent of Police, District- Rohtas, Bihar.
5. The Officer in-Charge, Vikramganj P.S., District- Rohtas, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rupa Kumari
For the Respondent/s : Mr.Government Pleader 7

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 02-05-2024

In the instant petition, petitioner prayed for the
following relief/s:

*“That this is an application for issuance
of a direction or directions, order/
orders in nature of Mandamus to
respondent no.-2 to 5 to release the
vehicle Tata Sumo Gold bearing
registration no.- BR-26C- 9835, chasis
no. MAT446246B9B06805, ENGINE
No.- 483DL56BYY703930 of the
petitioner, which is seized in connection
with Vikramganj P.S. case no.-*



352/2020, dated 16/08/2020, under section 30 (a) of Bihar Prohibition and Excise Act, 2018 (Amended) and direct the respondent no.- 5 to comply with the order dated 04/01/2022 passed by Collector cum District Magistrate, Rohtas (Sasaram) as well as order dated 23/11/2023 passed by learned CJM, Aurangabad, Bihar in Aurangabad P.S case no.- 432/2019, without further delay and also to direct the respondent no.- 4 to take appropriate action against respondent no.- 5 for willfully not complying the order dated 04/01/2022 & 23/11/2023 and without any just and proper reason illegally utilizing the vehicle in question of the petitioner and not releasing the same and or pass any other order/ orders which may deems fit and proper in the fact and circumstances of the case.”

2. The petitioner is owner of the Tata Sumo Gold bearing registration no. BR-26C- 9835, it was stolen by stranger on 09.11.2019, in the result of petitioner had registered FIR P.S Case No. 438 of 2019, at Aurangabad. Simultaneously, on 16.08.2020 the stolen vehicle was subject matter of offences for the Excise Act in that connection P.S Case No. 352 of 2020 in Vikramganj, District- Rohtas. Parallel proceedings for lodged against the petitioner. Confiscation proceedings have been concluded by the Collector cum District Magistrate, Rohtas (Sasaram) on 19.07.2021. It was subject matter of appeal before



the appellate authority. The appellate authority remanded the matter to the confiscating authority on 14.09.2021. On remand, Collector cum District Magistrate, Rohtas (Sasaram) proceeded to pass order of release of a subject matter motor- vehicle with the certain conditions to the extent that the vehicle was required to be released from the Jurisdictional Magistrate Court. During pendency of the matter before the Jurisdictional Judicial Magistrate insofar as releasing of subject matter of motor-vehicle, Collector cum District Magistrate, Rohtas (Sasaram) and other Excise officials proceeded to auction the subject matter of motor-vehicle in the light of certain circular stated to have been issued by the Excise Department/State Government to dispose of such of those seized vehicle. Office of the Collector cum District Magistrate, Rohtas (Sasaram) and Police officials and Excise officials proceeded to follow the circular issued by the State Government/Excise Department and auction the subject matter of motor-vehicle ignoring the order of the District Magistrate dated 04.01.2022 insofar as releasing the subject matter of the motor-vehicle in favour of the petitioner with certain conditions imposed to the extent that Judicial Magistrate order was required to be obtained for release of the subject matter of vehicle. In other words, the officials



respondents have ignored their own order and failed to wait for the decision of Collector cum District Magistrate, Rohtas (Sasaram) insofar as releasing of the subject matter vehicle. In fact on 23.11.2023 Judicial Magistrate passed the order.

3. Taking note of the aforementioned dates and events there are serious lapses on the part of the respondents ignoring their own order. Therefore, auction in the subject matter of motor-vehicle is contrary to decision of the District Magistrate afresh order on 04.01.2022. It is to be noted that issuance of circular by the State Government/Excise Department would be contrary to rule 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended rules 2022 and 2023. Therefore, circular may not assist the official respondent in taking up auction proceedings. That apart, they are well aware of the order of the District Magistrate dated 04.01.2022 insofar as releasing of the subject matter of the vehicle. They could have awaited for orders of the Jurisdictional Magistrate and there was no hurry in auctioning the subject matter of vehicle. If there was any hurdle insofar as implementation of circular in that event District Magistrate and other concerned officials should have apprised the author of the circular to the extent that matter is Sub-judice before the Judicial Magistrate insofar as



releasing of the subject matter of the vehicle. Therefore, question of auctioning the subject matter of vehicle was not warranted in the light of the circular.

4. Taking note of fact that subject matter of motor-vehicle has already been auctioned on 24.04.2023 and the third party right has already created, therefore, the official respondents are hereby directed to take note of the insurance policy of the subject matter of vehicle if it is available and if it is not available they must approach any one of the national insurance company and get instruction about the valuation of the vehicle with reference to the model, thereafter, proceed to determine the amount and release the same in favour of the petitioner along with interest @ of six per cent per annum.

5. The above exercise, shall be completed within a period of three weeks, failing which petitioner is at liberty to file interlocutory application to recall this order so as to take appropriate steps against such of those officials who are all involved. We may direct State Government/ Competent Authority to initiate disciplinary proceedings against such of those persons who are all involved insofar as auctioning the subject matter of vehicle and violating the District Magistrate order dated 04.01.2022 and after due process of law and



following principle of natural justice or to follow disciplinary proceedings and order for recovery of amount.

6. With the above observations, the present petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Krishnakant/-
Alok

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.05.2024
Transmission Date	NA

