

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16133 of 2024

=====

Laxshminiya Devi W/o Rintu Mochi, Residence of Village- Mahajpura, P.S.-
Bikram, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Excise and Prohibition Bihar, Patna.
2. District Magistrate Cum Collector, Patna.
3. Superintendent of Excise, Patna.
4. Senior Superintendent of Police, Patna.
5. Assistant Commissioner Excise Prohibition, Kumhrar, Patna.
6. Officer-In-Charge of Jakkanpur Police Station under District - Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Abhishek Anand, Advocate Mr. Bablu Kumar, Advocate
For the Respondent/s	:	Mr. Pratik Kumar Sinha, AC to G.A-V

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
And
HONOURABLE MR. JUSTICE S. B. PD. SINGH
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 11-11-2024

In the instant petition, petitioner has prayed
for the following relief(s):-

i. For issuance of appropriate writ/order/direction for quashing the order dated 11/07/2024 passed by the Assistant Commissioner of Excise Prohibition, Patna.

ii. For issuance of writ in the nature of mandamus or any other appropriate writ or order or direction to the respondent authorities to immediately release the vehicle of the poor petitioner, so that she could keep her bread and better alive.

iii. And/Or for issuance of other consequential writ or writs, order or orders, direction or directions as deems fit and proper in the facts and circumstances of the case.

2. Briefly stated the facts of the case is that there is alleged recovery of 25 litres of country made *Mahua* liquor from the Tempo of the petitioner bearing Registration No. BR-01PQ-4461, Chesis No. MD2B17AX0PWF83619 and Engine No. AZXWPF74999. On the basis of aforesaid fact, Jakkanpur P.S. Case No. 634 of 2023 dated 28.10.2023 was registered under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Learned counsel for the petitioner has submitted that petitioner is the owner of the seized

vehicle and she has no concern with the seized illicit liquor. The petitioner is a poor lady and she had purchased the said vehicle after taking loan from the financial institution and an EMI of Rs. 9000/- per month is being paid by the petitioner to pay her loan. The aforesaid vehicle was given to the driver and petitioner had no idea about any illegal liquor being transported in her vehicle. The driver had not been arrested from the spot. During investigation also, nothing concrete has come to prove that petitioner was involved in any kind of purchase, sell or transport of the illicit liquor. Moreover, the Assistant Commissioner, Excise Prohibition, B.S.B.C.L, Prohibition, Excise & Registration Department, Sandalpur Road, Kumhrar vide its order dated 11.07.2024 has directed the petitioner to deposit 30 percent of the insurance amount of her vehicle (i.e. Rs. 76267/-) in order to get her vehicle released.

4. Considering the aforesaid submissions

made above, this Court finds that fine of 30 percent of insurance amount of the vehicle in question is on higher side and it is too harsh.

5. In that view of the matter, the fine of 30 percent of insurance amount of the vehicle is reduced to a fine of 20 percent of the insurance amount of the vehicle bearing Registration No. BR-01PQ-4461, Chesis No. MD2B17AX0PWF83619 and Engine No. AZXWPF74999. The petitioner is directed to pay fine of 20 percent of insurance amount within a period of two months in two equal monthly installments from the date of receipt of the order of this Court.

6. The concerned authority is hereby directed to release the vehicle of the petitioner bearing Registration No. BR-01PQ-4461, Chesis No. MD2B17AX0PWF83619 and Engine No. AZXWPF74999 after receiving 20 percent of insurance amount of the vehicle within a period of one week.

7. Accordingly the impugned order dated

11.07.2024 passed by the Assistant Commissioner of
Excise Prohibition, Patna is modified to the above
extent.

8. C.W.J.C. No. 16133 of 2024 stands
disposed of.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	28/10/2024
Uploading Date	13/11/2024
Transmission Date	N/A