

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16909 of 2024

=====

Babulal Gupta Son of Churaman Singh, Resident of D 83, Bhagya Bihar,
Habas, P.S. - North West Delhi, District - New Delhi.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Development of Registration and Excise, Bihar, Patna.
2. The District Magistrate, Rohtas.
3. The Superintendent of Police, Rohtas.
4. The Sub Divisional Officer, Rohtas.
5. That Station House Officer, Dehri Nagar (Indrapuri O.P.) Police Station, District- Rohtas.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar Tiwary
For the Respondent/s	:	Mr. Government Pleader (20)

=====

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 : 12-12-2024

In the instant writ petition, petitioner has prayed

for the following reliefs:

“(i) for commanding the respondent authorities to release the Tata Ultra Truck vehicle bearing Reg. No. UP-17AT-5940, Engine No. 5LNGDICR17DRY503914 and Chassis No. MAT764051J7D09299 in favour of the petitioner who is the owner of the vehicle in question and said vehicle was

seized in pursuance to Dihri Nagar (Indrapuri O.P.) P.S. Case No. 192 of 2021 dated 27.03.2021 registered for offences under section 30(a) of the Bihar Prohibition and Excise Act. In this way vehicle in question has been parked in the premises of Dihri Nagar (Indrapuri O.P.) Police Station causing decay of vehicle on day to day as the same has been parked in open space without any use and in absence of any state hanger.

(ii) Petitioner further seeks indulgence of this Hon'ble Court for which he is entitled in the eyes of law and in the fact and circumstances of the present case."

2. Briefly stated the facts of the case is that there is alleged recovery of 180 ml of *Whisky* from the right pocket of pant of *Khalasi* of a Truck bearing Registration No. UP-17AT-5940. On the basis of aforesaid fact, Dihri Nagar (Indrapuri O.P) P.S. Case No. 192 of 2021 dated 27.03.2021 was registered under Section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

3. Learned counsel for the petitioner submitted that petitioner is the owner of the seized vehicle. From perusal of the F.I.R and seizure list, it is clear that nothing has been recovered from the vehicle in question nor any incriminating material has been recovered from the conscious possession of the petitioner, rather, recovery of 180 ml. of liquor has been made from co-accused Vikki Kumar, who is *Khalasi* of the truck in question. The seizure list has also been made without following the rule of search. The petitioner has been made accused only because he is owner of the seized vehicle.

4. Considering the seizure of small quantity of liquor, the concerned authority is hereby directed to collect fine of Rs.10,000/- and release the subject matter of vehicle within a period of one week from the date of receipt of this order.

5. We are conscious of the fact that alleged recovery is meager quantity and the aforesaid order has been passed while invoking extra ordinary jurisdiction

under Article 226 of the Constitution of India for the reasons that unnecessarily petitioner shall not be subjected to various proceedings like Rule of 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12A in the year 2022 and 2023, Sections 58, 92 and 93 of the Bihar Prohibition and Excise Act, 2016, for a trivial issue of 180 ml of illicit liquor and such order is required to prevent the multiplicity of proceeding in the interest of justice.

6. Accordingly, the writ petition stands disposed of.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	26/11/2024
Uploading Date	12/12/2024
Transmission Date	N/A