IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1015 of 2022

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Ranju Devi, W/o Pradeep Yadav @ Pradeep Kumar @ Pradeep Kumar Yadav, resident of village-Kyotapatti, P.S.-Supaul Nadi, District-Supaul.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Excise, Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Superintendent of Police, Supaul.
4. The Additional District Magistrate, Supaul.
5. The Officer Incharge, Supaul Nadi Police Station, District-Supaul.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar, Advocate.

For the Respondent/s : Mr. Kumar Pankaj, AC to SC-5.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA)

Date : 06-03-2025

1. Heard both the parties.

2. The instant writ petition has been filed for setting aside the order dated 15.12.2021 passed by Additional Chief Secretary, Bihar, Patna in Revision (Excise) No.247 of 2021 dismissing the revision petition and affirming the order dated 01.11.2021 passed by Excise Commissioner in Excise Appeal No.730 of 2021 as well as order dated 12.08.2021 passed by District Magistrate-cum-Confiscating Officer, Supaul in Confiscation (Excise) Case No.117 of 2021, by which the vehicle of petitioner has been ordered to be confiscated.

3. The petitioner had earlier approached this Court in CWJC No.11500 of 2021 for release of her vehicle which was disposed of vide order dated 16.07.2021 with direction to Additional Collector, Supaul to dispose of the proceeding within a period of three months or to release the said vehicle.

4. The allegation is that on 08.02.2021 a Scorpio car bearing Registration No. BR-50P-6328, Chassis No. MA1TA2XM2L2M15500, and Engine No. XML4M17128 was standing at the door of Lalan Yadav, on search, 1.380 litres of foreign liquor recovered from wrapper of its seat cover, after which the said vehicle was seized. On basis of the aforesaid facts, an F.I.R. bearing Supaul Nadi P.S. Case No. 12 of 2021 dated 08.02.2021 was registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (as amended) against Pradeep Kumar Yadav (husband of the petitioner) on the basis that the vehicle is registered in his name. Thereafter, on recommendation of Superintendent of Police, Supaul, confiscation proceeding under Sections 56(b) and 58 of the Act was initiated by Additional District Magistrate, Supaul as Confiscation (Excise) Case No. 117 of 2021 and vide order dated 12.08.2021, the vehicle was ordered for confiscation. In appeal bearing Excise Appeal No.730 of 2021 before Excise Commissioner, the said order of confiscation was affirmed vide order dated 01.11.2021. In revision bearing Excise Revision No.247 of 2021, the Additional Chief Secretary, Bihar, Patna affirmed the order of confiscation of vehicle in question and permitted ADM, Supaul to proceed with auction in confiscation proceeding in accordance with the Act.

5. The Co-ordinate Bench of this Court vide order dated 03.03.2022 in instant writ petition has directed District Magistrate-cum-Confiscating Authority to provisionally release the vehicle of petitioner with certain conditions stated therein during pendency of this writ petition.

6. Learned counsel for the petitioner submitted that there is no involvement of the vehicle in question in any kind of illicit liquor trade and it is purely a case of plantation at instance of enemies of the petitioner’s husband. Further, he was falsely implicated in this case and taking advantage of this incident he has been made accused of two other cases. It is further submitted that the key of the vehicle was found lying by the side of the said vehicle which is indicative of the fact that it is certainly a case of plantation. He further submitted that recovery of meager illicit liquor was at best may be treated for personal consumption and the said vehicle was not used for transporting illicit liquor.

7. Per contra, learned counsel appearing for the respondents submitted that the order passed by the confiscating authority, appellate authority and the revisional authority are on basis of the materials available on record, and hence no interference is needed. Therefore, the contentions raised by the petitioner are not tenable in light of the orders passed by the respondent authorities.

8. Having gone through the material available on record, it is evident that recovery of 1.380 litres of illicit liquor from the vehicle in question is a meager quantity and confiscation and auction proceedings thereof are disproportionate and arbitrary since, confiscation and auction proceedings of the vehicle in question do not commensurate with the offence committed regarding recovery of such a meager quantity of illicit liquor.

9. In light of the aforementioned discussion and considering the facts and circumstances of the case, we are of the opinion that confiscation and auction proceeding of vehicle in question for meager quantity of 1.380 litres of illicit liquor recovered therein is not reasonable. Therefore, the order dated

15.12.2021 passed by Additional Chief Secretary, Department of Excise, Patna, Bihar in Revision (Excise) No.247 of 2021, the order dated 01.11.2021 passed by Excise Commissioner in Excise Appeal No.730 of 2021 and order dated 12.08.2021 passed by District Magistrate-cum-Confiscating Officer, Supaul in Confiscation (Excise) Case No.117 of 2021, are hereby quashed and the petitioner is directed to pay a sum of Rs.25,000/- (Twenty Five Thousand Rupees Only) as fine within four weeks from the date of receipt of this order. If the fine is not remitted within the said peroid, the District Magistrate-cum-Confiscating Authority, Supaul shall continue with the auction proceeding.

10. With the above observation/direction, the present petition stands **disposed of.**

(Sunil Dutta Mishra, J)

I agree
P. B. Bajanthri, J

(P. B. Bajanthri, J)

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AFR/NAFR	NAFR
CAV DATE	19.02.2025
Uploading Date	06.03.2025
Transmission Date	NA