

(2020) 09 PAT CK 0353

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 8098 Of 2020

Ekala Singh

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision: Sept. 28, 2020

Acts Referred:

- Bihar Prohibition And Excise (Amendment) Act, 2018 - Section 30(a)

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J

Bench: Division Bench

Advocate: Arvind Kumar Pradhan, Mayank Kumar, Kumar Manish

Final Decision: Disposed Of

Judgement

Heard the parties.

Petitioner has prayed for following reliefs:-

(i) For direction/order to the respondent no.2 and 5 to release of vehicle in question Bolero Pick Up Vehicle bearing registration Number UP

60T5978, Chassis No.MA1ZN2GKF1H63191 and Engine No.GHF1H44991 in favour of the petitioner which has been seized in connection with

Official (P.R.) P.S. Case No. 36(0)/2020 dated 12/02/2020 registered under Section 30(a) of the Bihar Excise and Prohibition Act (Amendment),

2018.

(ii) Any other relief/s as the petitioner may be found to be entitled by this Hon'ble Court under the facts and circumstances of the case mentioned

herein below. Allegation is recovery of 222.580 litres of illicit foreign liquor kept on the bolero vehicle. Accordingly, the vehicle and the illicit foreign

liquor was seized and driver of the vehicle was arrested and FIR was lodged giving rise to Official (P.R.) P.S. Case No. 36(0)/2020 dated 12/02/2020

registered under Section 30(a) of the Bihar Excise and Prohibition Act (Amendment), 2018.

Petitioner claims to be owner of the vehicle. As there is recovery of huge amount of illicit foreign liquor from the vehicle same is liable for confiscation

under Section 56 of Excise Act. It is submitted that on the recommendation of the police, confiscation case against the seized vehicle has been

initiated giving rise to Confiscation Case No.51 of 20-21 and petitioner is directed to appear in the court of the Confiscating Officer on 13.10.2020 and

file his show cause and District Magistrate / Confiscating Officer shall thereafter conclude the confiscation proceeding within 90 days from the date

of filing of show cause failing which District Magistrate / Confiscating Officer, Buxar shall provisionally release the vehicle of petitioner after due

identification of ownership of the vehicle and on production of ownership and registration documents with respect to vehicle in question in his name

with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

(i) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation

proceeding and shall not alienate the vehicle during this period.

(ii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when required.

(iii) Prior to release of the vehicle, a Panchanama would be prepared wherein the photograph of the vehicle shall be taken and will be certified by the

petitioner and same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama.

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.

With said observations, this writ petition is disposed of.