

(2021) 06 PAT CK 0013

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 6376 Of 2021

Dinesh Kumar

APPELLANT

Vs

State Of Bihar & Ors

RESPONDENT

Date of Decision: June 2, 2021**Acts Referred:**

- Bihar Prohibition And Excise Act, 2016 - Section 58

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J**Bench:** Division Bench**Advocate:** Sumit Shekhar Pandey, Vikash Kumar**Final Decision:** Disposed Of

Judgement

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

• Issuance of a writ in the nature of the mandamus or any other appropriate writ/writs, order/orders, direction/directions directing the respondent

authorities to release four-wheeler Bolero with registration number BR-09U-1982, Engine No. GHEFL54521, Chassis No. MA1XA2GHKE5M89563,

which belongs to the petitioner and has been seized in Gopalganj Excise Case No. 208/2020 for the alleged offence u/s 30(a) of the Excise

Amendment Act, 2018 (hereinafter referred as the Excise Act.)

It is submitted by learned counsel for the petitioner that no illicit liquor was recovered from the vehicle and same was seized on suspicion only and

since seized vehicle was not found to be used in transportation of illicit liquor, as such, same is not liable for confiscation under Section 58 of the

Excise Act.

It is submitted by learned counsel for the State that confiscation proceeding has already been initiated against the seized vehicle.

In the facts and circumstances of the case, concerned District Magistrate/Confiscating Authority is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle on production of ownership and registration papers 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.