

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15589 of 2024

=====

Pappu Rai S/o Mohan Ray, R/o Village-Sukmarpur Jafrabad Tok,
Arazibeshinao Barar, P.S.-Raghopur, District-Vaishali, BR-844503.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
2. The District Magistrate, Vaishali, District-Vaishali.
3. The Senior Deputy Collector cum Confiscation Authority, District-Vaishali, Bihar.
4. That Superintendent of Police, Vaishali, District-Vaishali.
5. The Station House Officer, Raghopur, P.S.-Raghopur, District-Vaishali.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Yadav, Advocate
Mr. Prashant Kumar, Advocate
For the Respondent/s : Mr. Kunarl Tiwari, AC to GA 2

=====

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

Date : 30-10-2024

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

"(i) For quashing memo no. 417 dated 14.08.2024 and corrected by memo 426 dated 10.09.2024 (Annexure-P/10) issued by Senior Deputy Collector, Vaishali whereby and whereunder learned Senior Deputy Collector, Vaishali has directed to deposit Rs. 2,90,458/-(two lakh ninty thousand four hundred fifty eight) rupee in the office of Superintendent, liquor prohibition, Vaishali and Rs. 8,774/- (eight thousand seven hundred seventy four) rupee in the Bank Account of BSBCL to release the tractor of the petitioner.



(ii) For release the tractor bearing Registration No. BR-01-GM-0288 Engine No. E3599509 and Chasis No. T053533795LK in favour of the petitioner which has been seized in connection with Raghopur (Rupaspur O.P.) P.S. Case No. 246 of 2023 dated 14.10.2023 instituted under Section 414 of the Indian Penal Code read with Section 30(A)/30(c) of the Bihar Prohibition and Excise Act, 2018;

(iii) For release of Gud (Mitha) weighing 5733 Kg packed in 147 sacks each sacks containing 39 Kg loaded on seized tractor and case amount of Rs. 6,18,300/- (six lakh eighteen thousand three hundred) rupee in favour of petitioner.

(iv) For restraining the Respondents from taking any coercive action in connection with Raghopur (Rustampur O.P.) P.S. Case No. 246 of 2023 dated 14.10.2023 instituted under Section 414 of the Indian Penal Code read with Section 30(A)/30(c) of the Bihar Prohibition and Excise Act, 2018;

(v) For any such other relief or reliefs to which the petitioner may be found entitled in course of hearing of this writ petition."

2. The petitioner's tractor and residential premises are involved for the offences under Excise Act. Even Gud (Mitha)/Jaggery worth about Rs. 2,28,735/- has been seized. In other words, seizure of materials from the tractor is only Gud (Mitha)/Jaggery whereas seizure of 210 litres of country-made liquor was from the premises/residential house of the petitioner. In the present case petitioner has sought for the release of subject



matter of tractor and goods like jaggery. The alleged incident took place on 13.10.2023. Confiscation proceeding has attained finality on 27.07.2024. The petitioner has not invoked remedy of appeal before the appellate authority till date.

3. Be that as it may, learned counsel for the petitioner submitted that there is no seizure of any liquor from the subject matter of tractor and what has been recovered is only jaggery, therefore, offences under Excise Act is not attracted. Therefore, he is entitled to have the benefit of release of the subject matter of vehicle and goods.

4. Learned counsel for the respondents resisted the aforesaid contention and submitted that tractor and residential premises are adjacent. Tractor carrying jaggery would suffice to draw inference that jaggery is meant for preparation of liquor at residential premises. It is further submitted that petitioner has admitted that he is prepared to pay fine in the Form IV. Therefore, petitioner is liable to pay whatever the fine demanded by the concerned authority at Rs. 2,90,458/-. Further, if petitioner has a remedy of appeal before the appellate authority pursuant to confiscation order dated 27.07.2024, therefore, the present petition is liable to be dismissed.

5. Heard learned counsels for the respective parties.



6. Facts are not disputed. Seizure of the subject matter of tractor and premises on the score that 210 litres country-made liquor was seized from the residential premises is incorrect. Insofar as seizure of the premises is correct, subject to undertaking, proceedings like confiscation and other proceedings. We are concerned with the release of the tractor and goods. Undisputedly, not even one millilitre has been seized from the tractor and what has been recovered is jaggery. It is to be noted that petitioner is having a trade business in the name of "Pappu Gud Bhandar" and it is registered under the Bihar Shops and Establishments Act, 1953. That apart, perusal of the records it is evident that petitioner has produced invoice relating to purchase of jaggery worth about Rs. 2,28,735/-. Therefore, the seizure of tractor and jaggery is contrary to provision of Bihar Prohibition and Excise Act, 2016. In the absence of seizure of any liquor from the subject matter of vehicle for the offences under Excise Act is not attracted insofar as seizure of the subject matter of tractor. Therefore, the tractor would be released in favour of the petitioner within a period of three weeks from the date of receipt of this order. Insofar as Gud (Mitha) is concerned, one has to draw inference that it was seized almost a year back the condition of the seized jaggery may not be in order. Therefore, the concerned authorities are hereby directed



to pay the invoice amount of Rs. Rs. 2,28,735/- insofar as purchase of jaggery which was uploaded in the subject matter of tractor. The aforementioned amount shall be released by the concerned authority within a period of four weeks from the date of receipt of this order.

7. We have not expressed our view insofar as recovery of liquor from the residential premises is concerned. In that regard, the concerned respondents are hereby directed to proceed in accordance with law and complete the proceedings in the light of the provision of Bihar Prohibition and Excise Act, 2016.

8. Accordingly, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.10.2024
Transmission Date	N/A

