

(2020) 02 PAT CK 0351

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 13524 Of 2019

Nitish Kumar

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 26-02-2020

Acts Referred:

Bihar Prohibition And Excise Act, 2016 — Section 30(a)

Citation : (2020) 02 PAT CK 0351

Hon'ble Judges : Dinesh Kumar Singh, J;Anil Kumar Sinha, J

Bench : Division Bench

Advocate : Man Mohan Kumar, Kumar Manish

Final Decision : Disposed Of

Judgement

Heard Mr. Man Mohan Kumar, learned counsel for the petitioner and Mr. Kumar Manish, learned Standing Counsel No. 5 for the respondents.

The present writ application has been filed for release of Maruti Wagon-R car, bearing Registration No. BR27K-4356, seized in connection with G. O. Case No. 78 of 2018, registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018 (hereinafter referred to as 'the Act').

The prosecution case is that the vehicle in question was intercepted by the Excise Officials on 11.02.2018 and from the vehicle in question, 70.6 litres of country made liquor was recovered, leading to registration of G.O. Case No. 78 of 2018.

It is submitted by learned Counsel for the petitioner that the petitioner is the registered owner of the vehicle in question and the certificate of registration of the seized vehicle has been brought on record by way of Annexure-2 to the writ petition. The vehicle is rotting under the open sky. The petitioner is ready to produce the motorcycle in question as and when required by the Court concerned and he undertakes not to change the shape and nature of the motorcycle in question and also not to transfer or alienate the motorcycle in question.

Mr. Kumar Manish, relying on the counter affidavit, dated 24.01.2020, filed on behalf of respondent nos. 4 and 6, submits that confiscation proceeding being Confiscation Case No. 135(M) of 2018 has already been initiated against the vehicle, in question and notice has also been issued to the petitioner on 16.04.2018.

Learned Counsel for the petitioner submits that the petitioner has already appeared in the confiscation proceeding but the District Magistrate, Nawada, is not holding the Court. He further submits that on the last two dates fixed in the case, i.e. on 25.01.2020 and 25.02.2020, the petitioner had appeared in the case, but on both the dates, the Court was not available.

Considering the ratio laid down by a Full Bench of this Court in the case of Baleshwar Roy Vs. The State of Bihar and Ors., reported in 2018(4) PLJR 970, we are not inclined to interfere at this stage.

It is expected that the Respondent No. 2, the District Magistrate, Nawada shall conclude the proceeding of Confiscation Case No. 135(M)/2018 within a period of six weeks from the date of receipt/production of a copy of this order, in accordance with law.

Accordingly, with the above observation and direction, the present writ application is disposed of.

Let a copy of this order be communicated to the District Magistrate, Nawada, through fax, immediately.