

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 18412 of 2019**

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Madan Kumar Gupta, Aged about 46 years, Gender Male, Son of Jagdish Prasad Gupta Resident of Village- Silanath Dullipatti, P.S.- Jaynagar, District- Madhubani.

... .. Petitioner

Versus

1. The State of Bihar through its Chief Secretary, Old Secretariat, Patna.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Department of Excise, Government of Bihar, Patna.
4. The District Collector, Madhubani, District- Madhubani.
5. The Superintendent of Police, Madhubani. District- Madhubani.
6. The SHO, P.S.- Deodha, District- Madhubani.

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr. Ravindra Kumar Singh, Advocate  
For the Respondent/s : Mr. Vikash Kumar (Sc11)

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA**

**and**

**HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH**  
**ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)**

2. 16-12-2019                      Heard learned counsel appearing for the petitioner and learned counsel for the State.

The petitioner has filed this writ petition for release of his Splendor plus motorcycle, bearing registration no. BR32Z-0450, which has been seized in connection with Deodha P.S. Case No. 76 of 2019 registered under Section 30(a) of Bihar Prohibition and Excise Act, 2016 as well as other provisions of the Indian Penal Code while the aforesaid vehicle was being



used in carrying illicit liquor.

The petitioner has specifically pleaded in paragraph – 9 of the petition that he learnt that the confiscation proceeding has already been initiated, but no notice regarding initiation of confiscation has been served upon the petitioner as yet.

Section 58 of Bihar Prohibition and Excise Act, 2016 gives power to the District Collector to initiate confiscation proceeding if a vehicle is seized in connection with Bihar Prohibition and Excise Act, 2016 and the aforesaid section goes to show that after initiation of confiscation proceeding, the Court has got no jurisdiction to release the vehicle.

Learned counsel appearing for petitioner submits that petitioner came to know about initiation of confiscation proceeding, but the petitioner cannot say with surety about initiation of the confiscation proceeding, as petitioner has not received notice as yet.

In view of the aforesaid submissions as well as facts and circumstances of the case, this writ petition stands disposed of with direction to learned Additional Sessions Judge-cum-Special Judge, Excise, Madhubani to obtain a report from the District Collector, Madhubani about the initiation of



confiscation proceeding in respect of the aforesaid vehicle and if the report comes that the confiscation proceeding has not been initiated as yet, in that event, the learned court below shall release the seized motorcycle i.e. Splendor plus motorcycle, bearing registration no. BR32Z-0450, in favour of the applicant-petitioner on execution of bond of Rs. 40,000/- (forty thousand) after verification of original documents of the aforesaid vehicle, subject to condition that the aforesaid vehicle shall be produced by the petitioner whenever and wherever it is required by the court and he shall not alienate or transfer the aforesaid vehicle without prior permission of the concerned court. However, it is needless to say that if confiscation proceeding has already been initiated in respect of the above-stated seized vehicle, the concerned court shall not release the aforesaid vehicle in favour of the petitioner.

**(Hemant Kumar Srivastava, J.)**

**( Prabhat Kumar Singh, J.)**

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