

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7597 of 2020

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Ramesh Kumar Son of Mukesh Ray Resident of Indrapuri, Road No. 5A,
P.O.- Keshari Nagar, Police Station- Patliputra Colony, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Department of Excise, Govt. of Bihar, Patna.
2. The District Magistrate Patna.
3. The Senior Superintendent of Police Patna.
4. The Rural Superintendent of Police Patna.
5. The Officer-in- Charge Bhagwanganj Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ramashray Roy, Advocate
For the Respondent/s : Mr. Vivek Prasad, GP 7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 14-09-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

1. For issuance of writ in the nature of mandamus to direct the respondents, to release the vehicle that is Pulsar Motor Cycle bearing registration No. BR01DY-8120, Engine No.DKYCJF16981,ChassisNo.MD2A13EY2JCF76 302 of the petitioner which has been seized in connection with Bhagwan Ganj P.S. Case No.06 of 2020, registered u/s 30(a) of Bihar Excise Prohibition Act, 2016.

2. For direction to respondents to release the vehicle i.e, Pulsar Motor Cycle bearing registration No.BR01DY-8120, Engine No.DKYCJF16981,ChassisNo.MD2A13EY2JCF76 302 as the petitioner is registered owner of the said



vehicle.

3. For any other relief or reliefs for which the petitioner is entitled to in the facts and circumstances of the case.

Informant is a police officer who in his written complaint has alleged that on 5.1.2020 while he was on day patrolling duty along with other police personnel, he saw one person on a motorcycle who was carrying a bag tied on motorcycle and on seeing the police, he tried to flee away, however, he was nabbed after chase and on search of the bag, 50 litres of Mahua wine was recovered kept in a jar. Accordingly, the motorcycle and illicit Mahua wine was seized and person riding the motorcycle Vikash Kumar was apprehended giving rise to Bhagwan Ganj P.S. Case No.06 of 2020, registered u/s 30(a) of Bihar Excise Prohibition Act, 2016.

As seized motorcycle was used in transportation of illicit Mahua wine, same is liable for confiscation under Section 56 of the Excise Act.

It is submitted that confiscation case has been initiated by the District Magistrate, Patna on the recommendation made by police, however, no final order has been passed in the confiscation case and motorcycle is kept in open space unattended in police station.

The writ petition is disposed of with a direction to the



District Collector/Confiscating Officer, Patna to pass final order in the confiscation case within 90 days from the date of receipt/production of copy of order passed by this Court, if show cause has already been filed or within 90 days from the date of filing of show cause, failing which District Magistrate, Patna shall provisionally release the vehicle of petitioner after due identification of ownership of the vehicle and on production of ownership and registration 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.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.09.2020
Transmission Date	NA

