

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9005 of 2020

Sanjay Kumar Singh, Son of Vikrama Singh, Resident of Village- Chaita,
P.S.- Pakridayal, District- East Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police Government of Bihar, Patna.
2. The Director General of Police Government of Bihar, Patna.
3. The Commissioner Excise Dept. Govt. of Bihar, Patna.
4. The District Magistrate, East Champaran, Motihari, District- East Champaran, Motihari.
5. The Excise Superintendent, East Champaran, Motihari, Dist- East Champaran, Motihari.
6. The Officer-in Charge, Kundwachainpur, District- East Champaran, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.
For the Respondent/s : Mr. Vikash Kumar, SC 11

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 08-12-2020

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

Heard learned counsel for the petitioner and learned counsel for the State.

Petitioner has prayed for following relief:-

“For issuance of a writ in the
nature of Mandamus for direction for



releasing the motorcycle bearing Registration No. BR-05R-2368, Chassis No. MBLHA12ACFHDO1407, Engine No. HA12EMFHDO1407 which has been seized in Kundwachainpur P.S. Case No. 136/2019 and further issue direction to respondents release the motorcycle bearing Registration No. BR-05R-2368 to the petitioner as his motorcycle was theft as lodged the case as Pakridayal P.S. Case No. 38 of 2019 on 03.03.2019 as he is ready to furnish surety for release and further give other legal consequential benefit to the petitioner.”

Petitioner is the owner of the seized motorcycle which was stolen on 02.03.2019 for which he had instituted an FIR being Pakaridayal P.S. Case No. 38 of 2019 on 03.03.2019 under Section 379 of I.P.C. and same was being used by the miscreants for transportation of illicit liquor. Stolen motorcycle of petitioner was recovered by the police on 26.08.2019 on which illicit liquor was being transported and the miscreants fled away leaving the motorcycle which was seized by the police giving rise to Kundwachainpur P.S. Case No. 136/2019.

It is submitted on behalf of petitioner that his motorcycle was stolen for which he had instituted the FIR and the miscreants were using his stolen motorcycle in transportation of illicit liquor for which he cannot be held liable and his stolen motorcycle may be released in his favour which is



subject to confiscation proceeding before the District Magistrate-cum-confiscating officer, East Champaran, Motihari. Petition filed before Special Judge, Excise, East Champaran was rightly rejected by order dated 04.02.2020 passed by Special Judge (Excise) in Kundwachainpur P.S. Case No. 136 of 2019 as the seized vehicle was liable for confiscation under Section 58 of the Excise Act

In the facts and circumstances of the case, the District Magistrate, East Champaran/Confiscating officer, East Champaran is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was stolen and subsequently recovered and seized by the police in excise case on production of ownership and registration documents 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)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2020
Transmission Date	NA

