

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9045 of 2020

Vikas Kumar Son of Jagdish Sah, Resident of Raghuvir Chak, Mahinathpur
Kaithahi, Rampatti, P.S. Rajnagar, District - Madhubani.

... .. Petitioner/s

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 Magistrate, Madhubani, District - Madhubani.
5. The Superintendent of Police, Madhubani, District - Madhubani.
6. The SHO, P.S. Jaynagar, District - Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Singh, Adv
For the Respondent/s : Mr. Kumar Manish SC-5

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

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 14-12-2020

Petitioner has prayed for the following relief(s):-

“That this writ petition is being filed on behalf of the above named petitioner for issuance of appropriate writ/writs in the nature of Mandamus commanding the respondents authorities to release the TVS Apache Motorcycle bearing Registration No. BR32AB5444, Chasis No. MD634DE69K2D03206 and Engine No. DE6DK2902994 in favour of the petitioner which has been illegally seized by the Jaynagar police in connection with Jaynagar PS case No. 24 of 2020 dated 19.01.2020, district Madhubani for offence under Sections 272, 273, 414 and 34 of the Indian Penal Code and under Section 30(a) of the Bihar Prohibition & Excise Amendment Act, 2016.”



It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was stolen by unknown thieves on 02.11.2019 for which he has lodged FIR giving rise to Raj Nagar P.S. Case No. 308 of 2019 on 03.11.2019 and same was being used by the miscreants for transportation of illicit liquor.

Petitioner claims to be the owner of the seized vehicle and same was stolen on 02.11.2019 for which he had earlier instituted a case as such, petitioner cannot be held to be responsible for transportation of illicit liquor, however, since the vehicle was used for transportation of illicit liquor same is liable for confiscation but till date no confiscation proceeding has been initiated.

In the facts and circumstances of the case, **District Magistrate, Madhubani/Confiscating Officer, Madhubani,** 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 papers 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)

Rajiv/veena-

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

