

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.308 of 2020

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Gautam Singh @ Gautam Kumar, S/o Manoj Singh @ Manju Singh, Resident
of Village- Nawada, P.S. Chautham, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Bihar Excise Department,
Patna at Patna.
2. The Excise Commissioner, Bihar, Excise Department, Patna at Patna.
3. The Collector, District of Khagaria at Khagaria.
4. The Superintendent of Police, Khagaria at Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar, Adv
For the Respondent/s : Mr. Vivek Prasad (GP7)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 09-07-2020

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 respondents.

Petitioner has prayed for the following relief:-

“ This writ application is being filed on behalf
of above named petitioner for giving direction
to Respondent to release motorcycle Hero
Super Splendor bearing Registration No.
BR34L-4316, Engine No. JA05EGHGK-



06089, Chasis No. MBLJAR032HGK06536 which was seized in connection with Chautham P.S. Case No. 266 of 2019 for offence under Section 274, 275, 276, 419, 420, 467, 467/34 of the Indian Penal Code and Section 27(b)(ii), 27(d), 28/28(A) of Drugs and cosmetics Act, 2018 and Section 30(a) of Bihar Prohibition and Excise Act.”

Informant is Drug Inspector who in his written complaint has alleged that 4 bottles (100 ml. each) of codeine containing drugs Relaxo syrup was recovered from the dickey of motorcycle of petitioner on which FIR was registered for offence under Section 274, 275, 276, 419, 420, 467, 468, 34 of Indian Penal Code and Section 27 B (II) 27 (d), 28, 28(A) of Drugs and Cosmetics Act 2008 and Section 30 (a) of the Bihar Prohibition and Excise Act, 2018 giving rise to Chautham P.S. Case 266 of 2019.

It has been submitted on behalf of respondent that codeine containing drugs have been declared intoxicant accordingly confiscation proceeding has been initiated under Section 58 of the Act by Collector Khagaria by his order dated 18.01.2020 and same will be concluded within two months.

The writ petition is disposed of with a direction to the Collector, Khagaria, to conclude the confiscation



proceeding within 30 days, if not already concluded, from the date of receipt/production of a copy of order passed by this court failing which, the District Magistrate, Khagaria is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle 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.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

