

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5020 of 2021

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Fakir Ahmad, S/o-Vazir Ahmad, Resident of Village-Mahalgaon, Ward No.1,
P.S.-Jokihat (Mahalgaon), District-Araria (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate-Cum-Collector, Araria.
3. The Senior Superintendent of Police, Araria.
4. The S.H.O., Jokihat (Mahalgaon) Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Nishant Kumar Sinha, Advocate Mr. Satpal Narottam, Advocate Mr. Tarun Kumar Shekhar, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, G.P. 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 : 19-05-2021

Heard the parties.

Petitioner has prayed for following relief(s):-

- (i) “For directing the concerned respondent to
release the Motorcycle of T.V.S. company Apache
having Registration No. BR-38W-2221 in favour
of the petitioner arising out of Jokihat
(Mahalgaon) P.S. Case No. 371/2020, whereby
and whereunder the Confiscation Proceeding has
been not initiated yet and the said vehicle is lying



in open space of the Jokihat (Mahalgaon) Police Station since 08.10.2020 as it was seized for the offences under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

(ii) For other necessary relief/reliefs for which the petitioner may be found entitled in the facts and circumstances of the case.”

It is submitted that no illicit liquor was recovered from the vehicle and in fact only two bottles of cough syrup was recovered from motorcycle which was purchased for medicinal purpose.

In facts and circumstances of present case, District Magistrate/Confiscating Authority, Araria is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle 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)

veena/rajiv-

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

