

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4771 of 2021

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Chitranjan Kumar Son of Makharu Yadav Resident of Village-Gogari Kundi,
Ward No. 1, P.S. Gogari, District-Khagaria, (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate, Khagaria.
3. The Superintendent of Police, Khagaria
4. The Station House Officer, P.S. Maheshkhunt, District-Khagaria.
5. The Investigating Officer, P.S. Maheshkhunt, District-Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mr. Bishweshwar Ram

For the State : 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)

Date : 18-05-2021

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

“For release of one new Hero Motor Cycle

HF DELUXE-CDRS black colour vehicle

registration no.BR34J 8787 Engine

No.HA11EJF9E29151, Chassis

No.MBLHA11ATF9F15075 and on search of

arrested person 15 notes of 2000/- (two Thousands),

02 notes of 500/- (Five Hundreds, 01 note of 200/-



(Two hundred) and 14 notes of 100/- (one hundred) total 32600/- (Thirty two thousands six hundreds) was seized keeping in purse from his paint seized in connection with Maheshkhunt P.S. Case No.124/2020, G.R. No.2625/2020 for an offence under Section 30(a) of Bihar Prohibition & Excise Amendment Act, 2018 being absolute owner. The case is presently pending before the learned Special Judge Excise, Khagaria.”

As seized motorcycle was found to be used in transportation of illicit liquor which was recovered from the motorcycle as such, motorcycle is liable for confiscation under Section 58 of the Excise Act.

It is submitted that confiscation case has been initiated being confiscation case no.57/2021.

Petitioner is directed to appear in the court of the Confiscating Officer on 01.07.2021 and file his show cause and Confiscating Officer shall thereafter conclude the confiscation proceeding within 90 days from the date of filing of show cause failing which District Magistrate, Khagaria shall provisionally release the vehicle of petitioner after due identification of ownership of the vehicle and 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.

As recovered and seized cash is not liable for confiscation under section 56 of the Excise Act, as such, bar of jurisdiction in confiscation under section 60 of the Excise is not applicable and the special court excise has jurisdiction to pass order for release of cash during pendency of trial.

Petitioner would be at liberty to file a petition before the special court excise under section 451 of Cr.P.C. and if any such petition is filed for release of cash the special court excise shall dispose of such petition within 30 days from its filing.

Petition stands disposed of with the aforesaid observations/directions.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.05.2021
Transmission Date	NA

