

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5372 of 2021

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LALAN MANDAL @ LALO MANDAL son of Dip Narayan Mandal,
Resident of Mohalla- Parbatti Gali, P.S.- Tatarpur (Vishwavidyalaya),
District- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner,
Department of Excise, Government of Bihar, Patna
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Bhagalpur
4. The Superintendent of Police, Bhagalpur
5. The Office in Charge, Tatarpur (Vishwavidyalaya) Police Station, District-
Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amrendra Kumar Jha Mr. Dharendra Natha Jha, Advocates
For the Respondent/s	:	Mr. Vikash Kumar, SC 11

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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 : 26-05-2021

Heard learned counsel for the parties.

Petitioner has filed this writ application for following
relief(s):-

“ For issuance of an appropriate writ, rule or direction
in the nature of writ of mandamus commanding and directing
the respondents particularly the respondent nos.3 to 5 to
immediately release the vehicle (motorcycle) bearing



registration no.BR-10Z- 7729 of this petitioner which has been seized by the respondent no.5 in connection with Tatarpur (Vishwavidyalaya) P.S. Case No. 73/2019 dated 19.03.2019 registered under Section 30(a) of Bihar Prohibition Excise Act, 2016 as contained in Annexure -2.

(ii) And/or pass such other order or orders as deem fit and proper in the interest of justice.”

It is submitted that no illicit liquor was recovered from the vehicle and same was seized on suspicion only and since seized vehicle was not found to be used in transportation of illicit liquor, as such, same is not liable for confiscation under Section 58 of the Excise Act.

It is submitted by learned counsel for the State that confiscation proceeding being Confiscation Case No. 258 of 2020 has already been initiated against the seized vehicle and the date of appearance is 25.06.2021, on which date petitioner shall appear and file his show cause, if not already filed.

In the facts and circumstances of the case, concerned District Magistrate/Confiscating Authority 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)

Sanjay/-

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

