

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5998 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 Officer in Charge, Tatarpur (Vishwadiyalaya) Police Station, District-
Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Jha, Advocate
For the Respondent/s : Mr. Vivek Prasad, G.P. 7

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(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 : 16-07-2021

Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner has prayed for following relief(s):-

“(i) For issuance of an appropriate writ, rule
or direction in the nature of writ of
mandamus commanding and directing the
respondents particularly the respondent no.
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.”

Learned counsel for the petitioner states that perhaps mistakenly, registry has registered two cases of very same subject matter. He further states that earlier application, being C.W.J.C. No. 5372 of 2021 titled as Lalan Mandal @ Lalo Mandal Vs. The State of Bihar & Ors., listed first already stands disposed of vide judgment dated 26.05.2021. The said judgment exactly reads as under:-

“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.”

In view of the same, the present petition stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

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

