

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6711 of 2021

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Rita Devi Wife of Jalandhar Sahni Permanent Address- Resident of Ward No-12, Malpur, Muhalla- Naya Nagar, Ward No.- 2, Police Station- Malpur, District- Begusarai (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Excise, New Secretariat, Patna, Bihar.
2. The Collector, Begusarai.
3. The Officer-in-Charge, Khodawandpur (Chhaurahi) Police Station, P.S.- Khodawandpur (Chhaurahi), District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashank Shekhar, Adv
For the Respondent/s : Mr. Kumar Manish SC-5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 07-06-2021

Learned counsel for the parties desire the matter be taken up today.

Heard learned counsel for the parties.

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

“That this application being filed on behalf of the petitioner for direction to release the Hero Passion Pro Motorcycle bearing Registration No .BR33AD2270 seized on 17.06.2019 in connection with Khodawandpur (Chhaurahi), PS case No. 125 of 2019, seized by Sri Om Prakash Kumar Sub Inspector of Police, Khodawandpur (Chhaurahi) Police Station



in favour of the petitioner to the satisfaction of learned Collector/Special Judge, Excise, Begusarai on such term or terms as this Hon'ble Court deems fit and proper.”

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 has been further submitted by learned counsel for the petitioner that no confiscation proceeding has been initiated as yet.

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)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.06.2021.
Transmission Date	NA

