

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6836 of 2021

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Sunil Kumar Prasad @ Sunil Bin Son of Rajendra Prasad @ Rajendra Bin,
R/o village-Gangapur, Siswan, Police Station-Raghunathpur, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna
2. The Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
3. The Collector-cum-District Magistrate, Siwan.
4. The Superintendent of Police, Siwan.
5. The Officer-in-Charge, Raghunathpur, P.S., District-Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar, Advocate
For the Respondent/s : Mr. Kumar Manish, S.C. 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

Heard the parties.

Petitioner has prayed for following relief(s):-

“(I) For a direction upon the respondents, particularly Respondent No. 3 to 5 release the Honda Shine Motor Cycle bearing Registration No. BR29AF-8010, Chassis No. ME4JC737EJT036960, Engine No. JC73ET2067801 in favour of the petitioner which was seized in connection with Raghunathpur P.S. Case No. 215 of 2019 on 27.11.2019 registered U/s 37(C) of Bihar Prohibition and Excise Act, 2016.
(II) For any other relief or reliefs as

the petitioner may found entitled by this Hon'ble Court be given.”

It is submitted that no illicit liquor was recovered from the vehicle, as such seized vehicle is not liable for confiscation. Allegation against driver of the seized vehicle is to be found in a drunken condition. It has been further submitted that confiscation proceeding has already been initiated.

In facts and circumstances of present case, District Magistrate/Confiscating Authority, Siwan 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