

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.3432 of 2018

Arising Out of PS. Case No.-859 Year-2018 Thana- GOVERNMENT OFFICIAL COMP.
District- Nawada

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Umesh Sao, S/o Baso Sao, r/o Farha, PS-Akbarpur, Distt.-Nawada

... .. Petitioner

Versus

1. The State of Bihar through Secretary, Department of Excise, Bihar, Patna.
 2. Secretary, Department of Excise, Bihar, Patna.
 3. The District Magistrate cum Collector, Nawada, at Nawada.
 4. The Superintendent of Police, Nawada, at Nawada
- The S.I., Excise, Prahar Bal, Nawada

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Advocate
		Mr. Amresh Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Akash Chaturvedi, A.C. to S.C.-11

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 26-02-2021 The petitioner in the present case is seeking release of Passion Pro Motorcycle bearing registration no. BR-27C-5905 Chassis no. MBLHA10AWDHO24083, Engine No. HA10ENDHG38850 seized in connection with G.O. Case No. 259 of 2018, Ex 859 of 2018.

Earlier the case was adjourned for filing of counter affidavit on behalf of the State.

Mr. Akash Chaturvedi, learned AC to SC-11 submits that though counter affidavit could not be filed but he has instruction that a confiscation proceeding has already been initiated in Confiscation Case No. 32(E) of 2021.

Learned counsel for the petitioner submits that the



seizure of motorcycle had taken place on 06.08.2018 whereas the confiscation proceeding has been initiated after two and half years and during this period the vehicle is losing its road worthiness.

It is his submission that the confiscation proceeding is essentially in the nature of a civil proceeding and the ultimate aim of such proceeding is to realize the value of the confiscated vehicle, if the vehicle loses its road worthiness, neither the petitioner nor the State will be benefited by the same. Thus, the learned District Magistrate may be directed to consider the application of the petitioner for release of the vehicle during pendency of the confiscation case on such terms and conditions which may be deemed just and proper.

Learned counsel for the State submits that the Hon'ble Division Bench of this Court in the case of **Surendra Choudhary Vs. The State of Bihar & Ors. (Civil Writ Jurisdiction Case No. 9565 of 2020)** decided on 04.01.2021 has laid down the broad guidelines according to which the District Magistrate or any other delegated authority has to act and decide the confiscation proceeding and/or pass an interim order, therefore, this writ application may be disposed of keeping in view the direction of the Hon'ble Division Bench of



this Court.

Having regard to the facts and circumstances of the case, finding that this case would be covered by the judgment of the Hon'ble Division Bench rendered in the case of **Surendra Choudhary Vs. The State of Bihar & Ors.** (supra), this writ application is being disposed of with a direction to the District Magistrate, Nawada that on appearance of the petitioner either himself or through his learned Advocate on the date fixed (06.03.2021), the matter will be dealt with strictly in accordance with the direction of the Hon'ble Division Bench in the aforementioned case and appropriate orders be passed.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

