

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14812 of 2021

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Bishnu Shankar Sharma Son of Kali Prasad Sharma resident of village -
Semaria, P.S. Barahara, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise department
Government of Bihar, Patna.
2. The D.G.P. Bihar, Patel Bhavan Bailey Road, Patna.
3. The District Magistrate, Bhojpur, Ara.
4. The officer Incharge, Barahara P.S. Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Hari Mohan Tripathi, Advocate
For the Respondent/s : Mr.Vikash Kumar (S.C.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 : 02-09-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“(I) To issue a writ in the nature of mandamus for
commanding the respondents the release the
passion pro Motorcycle bearing BR04 H 4983,
Chesis No. MBLHAS121HHK-00506, Engine No.
HA 10 ACHHK36527 in favour of the petitioner
which has been seized by the police in Rivilganj
P.S. Case No. 209 of 20 registered under Section
30(a) of Excise Act.

(II) To issue a writ/writs, order/orders,
direction/directions for commanding the
respondents to release the said Motorcycle in
favour of the petitioner which has been card in
Rivilganj P.S. Case No. 209/20.

(III) Any other relief or reliefs on his lordship may
deem fit and proper.”

It is submitted that 30 litres of Mahua Wine was recovered from the vehicle of petitioner which was stolen on 06.10.2019 for which he had instituted an FIR (Annexure-3) and his stolen vehicle was misused by miscreants for transporting illicit liquor which was seized by police on 18.06.2020 with illicit liquor and for which petitioner cannot be held to be responsible.

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)

veena/rajiv-

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