

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8758 of 2021

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Kavindra Kumar S/O - Ramjee Prasad R/O Village - Nasratpur, P.S. -
Dhanarua, District - Patna.

... .. Petitioner/s

Versus

1. the State of Bihar through the Principal Secretary, Excise Department, Patna, Bihar.
2. The District Magistrate Cum Collector, Patna.
3. The Superintendent of Police, Patna.
4. The Excise Superintendent of Police, Patna.
5. The Excise Officer - in - Charge, Patna.
6. The Officer - in - Charge, Rajeev Nagar Police Station, Patna.

... .. Respondent/s

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Appearance :

For the Petitioner/s : Mr.Niranjan Parihar, 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 : 29-06-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief:-

“i. For issuance of a writ in the nature of mandamus direction/s commanding the respondents to release the Hero Motorcycle (Passion Pro) of the petitioner bearing reg. no. BR01 DF5759 Chasis No. MBLHAR18XHHE 25458, Engine No. HA10ACHHE 95353 in favour of the petitioner which has been seized in Rajeev Nagar PS Case No. 80 of 2020 on 26.02.2020



registered for the offences punishable u/s 30(a) of Bihar Prohibition and Excise Amendment Act 2018 for recovered of 1.875 litre English Wine.”

It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was stolen by unknown thieves on 31.07.2019 for which he has lodged FIR giving rise to Masaurhi P.S Case No. 577 of 2019 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor and 1.875 litres of English wine was recovered by the police from said stolen motorcycle giving rise to Rajeev Nagar PS Case No. 80 of 2020 dated 26.02.2020 for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2018. Learned counsel for the petitioner further submits that till date no confiscation proceeding has been initiated.

Petitioner claims to be owner of the seized vehicle and same was stolen on 31.07.2019 for which he had earlier instituted a case as such, petitioner cannot be held to be responsible for transportation of illicit liquor, however, since the vehicle was used for transportation of illicit liquor same is liable for confiscation.

In the facts and circumstances of the case, **the District Magistrate/Confiscating Officer, Patna,** is directed to



provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was stolen and subsequently recovered and seized by the police in excise case 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 and direction, this writ petition
is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

