

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10057 of 2021

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Saroj Kumar, Son of Uttam Lal Prasad, Resident of Village- Ward No. 12,
Biraul, P.S.- Khajauli, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
2. Excise Commissioner cum I.G. Registration Bihar, Patna.
3. The District Magistrate Madhubani.
4. The Superintendent of Police Jaynagar, District- Madhubani.
5. The Officer-in- Charge Jaynagar, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manish Kumar No 13, Advocate
For the Respondent/s : Mr.Vivek Prasad, G.P. 7

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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 : 06-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“That this is an application praying for issuance of a Writ in the nature of a Writ of Mandamus, or any other appropriate Writ, order, commanding the Respondents, particularly the Respondent No. 3 to forthwith release the Motorcycle of the petitioner bearing Registration No. BR-32-Q-1169, Chasis No. MD634KE4XF2L24720 and Engine No. OE4LF286044, seized in connection with Jaynagar P.S. Case No. 75 of 2020 dated 07.03.2020, registered under section 272, 273, 414 and 34 IPC and 30(A) of the Bihar



Prohibition and Excise Act 2016. The petitioner further prays for a direction upon the Respondent to act strictly in accordance with law.”

It is submitted that 2100 bottles each containing 300 ml. Nepali liquor was recovered from the vehicle of petitioner which was stolen on 05.08.2019 for which he had instituted an FIR (Annexure-2) and his stolen vehicle was misused by miscreants for transporting illicit liquor which was seized by police on 06.03.2020 with illicit liquor for which FIR was instituted (Annexure-3) and for which petitioner cannot be held to be responsible.

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

Rajiv/veena-

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

