

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11075 of 2021

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Mohan Sahni Son of Late Dev Narayan Sahni Resident of Village Fakiradih,
P.S.- Gaighat, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Excise Department
Govt. of Bihar, Patna.
2. The District Magistrate Muzaffarpur.
3. The Superintendent of Police Muzaffarpur.
4. The Officer In- Charge, Gaighat Police Station Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amit Kumar Jha, Adv
For the Respondent/s : Mr. Vikash Kumar SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 19-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“i. For issuance of the order, direction or writ of mandamus or any other appropriate writ for commanding the respondent authorities to release the Hero Honda Glamour motorcycle of the petitioner having registration number BR-06AR-3410, Chassis No. MVLJA06ANFGD04138, Engine No. JA066EJFGD12393 seized by Gaighat police in connection with Gaighat P.S. Case No. 202 of 2016 dated 02.11.2016 for the alleged offences under Sections 30(a), 35(a) of Bihar Prohibition and Excise Act, 2016.

ii. For issuance of order, direction or writ of *certiorari* or any other appropriate writ to quash the order dated 09.01.2019 passed by the learned Special Judge, Excise Act, Muzaffarpur, wherein and whereby the learned court has rejected the application of the petitioner for release



of the vehicle bearing registration no. BR 06AR 3410 as not maintainable.”

It is submitted that no illicit liquor was recovered from the vehicle and same was seized on suspicion only as it was parked in the premises of line hotel (Dhaba) where raid was conducted and since seized vehicle was not found to be used in transportation of illicit liquor, as such, same is not liable for confiscation under Section 58 of the Excise Act.

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)

ranjan/-

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

