

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10916 of 2021

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Surendra Yadav Son of Ishwar Yadav Resident of Village- Paroria, P.S.
Hasanpur, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
3. The District Magistrate, Samastipur.
4. The Superintendent of Police, Samastipur.
5. The Officer-in- Charge, Rosra Police Station, District- Samastipur.

... .. 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.Mirtyunjay Kumar Mishra, Adv
For the Respondent/s : Mr.Vivek Prasad GP-07

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 16-07-2021

Heard learned counsel for the parties.

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

“(i) For issuance of writ in the nature of mandamus or any other appropriate writ for directing the respondents to release the H.F. Hero Dilux Motorcycle bearing Registration No. BR33AD5417, CHESIS NO. MBLHAR239J9H01082, ENGONE NO. HA11ENJ9HO1951, of the same has been seized in connection with Rosra P.S. Case No. 60 of 2021 registered under Sections 272, 273/34 of the IPC and section 30(a) of Bihar Prohibition and Excise Amendment, Act, 2018.”



It has been submitted by learned counsel for petitioner that nothing has been recovered from the motorcycle of the petitioner but on the basis of suspicion only, his motorcycle has been seized. It is further submitted by learned counsel for the petitioner that no confiscation proceeding has been initiated as yet and statement in this regard has been made in para-12 of his petition.

In view of the above, the writ petition is disposed of with a direction to the **Confiscating Authority/District Collector, Samastipur**, to immediately initiate the confiscation proceeding preferably within 15 days, if not already initiated, from the date of production/receipt of a copy of the order passed by this Court and conclude the confiscation proceeding within 90 days, from the date of filing of show cause failing which, he is directed to provisionally release the motorcycle of petitioner after due identification of ownership 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 observation 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

