

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11960 of 2021

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Niraj Singh Son of Uday Pratap Singh resident of Village Tola Sewak Rai,
Ram Nagar, P.S. Dokti, District Ballia, U.P.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate - cum - Collector, Saran at Chapra.
3. The Assistant Excise Commissioner, Saran at Chapra.
4. The Superintendent of Excise, Saran at Chapra.
5. The Vehicle Inspector, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Dewendra Narayan Singh, Advocate Mr. Ashutosh Kumar Singh, Advocate
For the Respondent/s	:	Mr. Kumar Manish, S.C. 5

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(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

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

Date : 20-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“(i) For release of petitioner’s Hero Glamour Motorcycle vehicle, bearing its Registration Number as UP-60Z-4572, Chassis No. MBLJA06ANFGE02822 and Engine No. JA06EJFGE08059, in favour of petitioner, which has been got seized in connection with Rivilganj P.S. Case No. 193 of 2019 registered for the offences punishable under Sections 188, 272, 34 of the I.P.C. and Sections 30, 38 and 41 of the Bihar Prohibition and Excise Act, 2016 on 09.07.2019, seized for the alleged violation



of Excise Laws. And

(ii) Also for restraining the respondent authorities from initiation and completion of confiscation proceeding against petitioner's Hero Glamour Motorcycle vehicle, bearing its Registration Number as UP-60Z-4572, seized in connection with Rivilganj P.S. Case No. 193 of 2019.

And

(iii) Also for any other relief/reliefs for which the petitioner is found entitled in the eye of law,"

It is submitted that two pouches of illicit liquor, each containing 100 gram was recovered from the pant of accused Rajesh Mahto, eight plastic pouches, each containing 100 grams illicit liquor was recovered from the possession of Suraj Kumar Sah and two polythene, each containing 5 Kg of illicit liquor was recovered from the possession of Kamlesh Rai who were riding on motorcycle of petitioner which was stolen on 29.06.2019 i.e. 10 days prior to the occurrence for which he had instituted an FIR and his stolen vehicle was misused by miscreants for transporting illicit liquor which was seized by police on 09.07.2019 with illicit liquor for which FIR was instituted and for which petitioner cannot be held to be responsible.

In facts and circumstances of present case, District Magistrate/Confiscating Authority, Saran at Chapra 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

