

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12488 of 2021

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Ram Umed Mandal Son of Chhathu Mandal Resident of Village- Jihuli, P.S.-
Patahi, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Collector East Champaran at Motihari.
3. The Superintendent of Police East Champaran at Motihari.
4. The Superintendent of Excise East Champaran at Motihari.
5. The Superintendent of Excise East Champaran at Motihari.
6. The S.H.O. of Pakaridayal Police Station District East Champaran.
7. The Investigating Officer Sikrahana Region, P.S.- Kundwachainpur, District- East Champaran.

... .. 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.Karandeep Kumar, Adv
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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

Date : 22-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief:-

“i. For directing the respondent authorities to release the motorcycle bearing Registration No. BR05V8530 Engine No. HA10AGHHHC73992, which has



been seized in connection with Excise Case No. 258 of 2020 registered for the offences punishable u/s under Section 30(a) of Bihar Prohibition and Excise Act.”

Allegation is recovery of 39 litre of illicit Nepali wine from the motorcycle and miscreants accompanying said vehicle fled away on seeing the police and thereafter illicit liquor and motorcycle were seized for which Excise Case No. 258 of 2020 was registered and since illicit liquor was recovered from motorcycle same became liable for confiscation under section 56 of the Excise Act for which confiscation proceeding has been initiated being Confiscation Case No. 750 of 2020.

Petitioner claims to be the owner of the vehicle and states that his vehicle was stolen by unknown thieves on 28.06.2020 for which he had instituted an FIR being Pakaridayal PS Case No. 153 of 2020 dated 30.06.2020 under Section 379 of the Indian Penal Code and his stolen vehicle was being misused by the accused for trade of illicit liquor and he is nowhere concerned with said crime and seized vehicle may be released in his favour during pendency of Confiscating proceeding pending before the Collector, East Champaran, Motihari.

In facts and circumstances of the present case when the vehicle of the petitioner was stolen and same was being misused



by accused in illicit trade of liquor for which petitioner cannot be faulted as such the confiscating authority is directed to provisionally release the vehicle of petitioner in his favour on due identification and presentation of ownership papers with two sureties (one local) to the extent of the value of the vehicle as indicated in 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.

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

