

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13675 of 2021

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Rajnandan Prasad, S/o Jagdish Prasad, resident of Village-Parsohada, P.S.-
Guraru, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Bihar, Patna.
2. The Collector-cum-District Magistrate, Gaya.
3. The Superintendent of Excise, Gaya.
4. The Officer in Charge, Barachatti P.S., District-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vinod Kumar. Advocate
For the Respondent/s : Mr.Kumar Manish (Sc 5)

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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 : 03-08-2021

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

(I) For issuance of an appropriate writ / writs direction/directions, order/orders to the authority to release the vehicle bearing Passion Pro Motorcycle bearing registration No. BR02AE 8192 to the petitioner which was seized by the police in Barachatti P.S. Case No. 59/20 instituted u/s 30(a) of Bihar Prohibition and Excise Act, 2016.

(II) For a direction to the respondent authority to release the vehicle of the petitioner taking into consideration that in fact nothing has been recovered from the vehicle in question.

(iii) To any other relief/reliefs to which the petitioner is entitled

in the facts and circumstances of this case.”

It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was stolen by unknown thieves on 26.09.2019 for which he has lodged FIR giving rise to Guraru P.S Case No. 140/19 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor and during search 7 pieces each containing 375 ml. Royal Challenger and 17 pieces each containing 180 ml. Emporium Blue foreign liquor was recovered by the police from said stolen motorcycle giving rise to Barachatti P.S. Case No. 59/20 dated 03.02.2020 for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

Petitioner claims to be owner of the seized vehicle and same was stolen on 26.09.2019 for which he had earlier instituted a case as such, petitioner cannot be held to be responsible for transportation of illicit liquor.

In the facts and circumstances of the case, the District Magistrate/Confiscating officer Gaya is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was stolen and subsequently recovered and seized by the police in excise case 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 and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.08.2021
Transmission Date	NA