

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13786 of 2021

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Rajesh Kumar S/o Late Laxman Prasad Resident of Village- Khuda Nagar,
Police Station- Chatauni, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The District Magistrate East Champaran (Bihar).
3. The Superintendent of Police East Champaran (Bihar).
4. The Excise Superintendent East Champaran (Bihar).
5. The Sub Inspector Excise Department, Sikrahana Circle, Motihari East Champaran Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Ranjan, Advocate
For the Respondent/s : Mr. Vikash Kumar, 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 : 10-08-2021

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

(I) For issuance of writ in the nature of mandamus or any other appropriate writ or direction upon the respondents directing them to release the vehicle of the petitioner, i.e., Hero Glamour bearing registration No.BR-05U-1886 bearing Engine No. JA06EJGGG47763, Chassis No.MBLJA06ANGGG14208 which has been seized in connection with excise case no.12/21 registered under Section 30(a) of the Bihar Prohibition & Excise Act, 2016 where on basis of this, the confiscation proceeding is initiated in confiscation case no.61/21 before the court District Magistrate, East Champaran at Motihari.

(ii) For stay on confiscation of aforesaid vehicle bearing registration no.BR05U-1886 in confiscation case no.61/21 and release the vehicle on furnishing bond and

sureties for the satisfaction of District Magistrate, East Champaran where the confiscation case no.61/21 is pending before the court of District Magistrate, East Champaran at Motihari.

(iii) For issuance of any other appropriate writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”

Petitioner claims to have purchased the vehicle from its registered owner Aftab Alam which was seized by the excise officials with the help of SSB carrying illicit liquor giving rise to Excise Case No.12 of 21 dated 7.1.2021 within Thana Kundwa Chainpur District East Champaran.

It is submitted by the petitioner that the vehicle was stolen for which Chautani PS Case No.19 of 21 dated 12.01.2021 was instituted by the petitioner under Section 379 of IPC against which police submitted final form on 13.5.2021 as case to be true but no clue, however, it appears that motorcycle was seized by the excise officials on 7.1.2021 and, thereafter, petitioner instituted FIR for theft of motorcycle on 12.1.2021 which is subsequent to vehicle seized by excise officials.

It appears that a petition was filed by the petitioner in the court of Special Judge, Excise, East Champaran Motihari in trial no.766 of 20-21 (arising out of Excise Case No.12 of 2021) for release of motorcycle claiming himself to be owner of seized motorcycle on the basis of purchase from its registered

owner Aftab Alam, however, same could not be transferred in his name . A police report was called by the Excise Court in which it was stated that confiscation proceeding against said motorcycle is pending before the District Magistrate, East Champaran, Motihari, against the registered owner of the motorcycle, as such, petition for release of motorcycle before the Special Court, Excise is not maintainable in view of bar of Section 60 of the Excise Act.

Since confiscation proceeding has already been initiated by the District Magistrate against the registered owner of the seized vehicle, present petition on behalf of petitioner claiming to be purchaser of seized motorcycle is not maintainable, as he is not the registered owner of the seized vehicle, accordingly, present petition is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.08.2021
Transmission Date	NA