

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14267 of 2021

=====

Krishna Mahato S/o Chanar Mahato, Resident of Village-Bakharia, Jagir Kurmi Tola, P.S.-Majhulia, Dist.-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Excise and Prohibition Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Excise and Prohibition Department, Govt. of Bihar, Patna.
3. The Collector-Cum-District Magistrate, East Champaran at Motihari.
4. The Superintendent of Police, East Champaran at Motihari.
5. The Officer-In-Charge, Chhauradano, Police Station, Chhauradano, District-East Champaran.
6. The Investigating Officer, Chhauradano P.S. Case NO. 33/2021, Chhauradano Police Station, Chhauradano, District-East Champaran.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Advocate
For the Respondent/s : Mr. Kumar Manish, SC 5

=====

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 : 24-08-2021

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

“A. For issuance of a writ in the nature of

mandamus or any other appropriate writ, order/s,

direction commanding the respondents to release Hero

Glamour Motorcycle of the petitioner bearing

Registration No. BR22AJ-7841, Chassis

No.MBLJAR023KGA45616 and Engine
No.JA06ERKGA58083, which has been seized in
connection with Chhauradano P.S. Case No. 33/2021
registered u/s 30(a) of the Bihar Prohibition and Excise
Act.

B. For any other relief/s to which the petitioner
is found entitled to.”

It is submitted on behalf of petitioner that he is the
owner of the seized vehicle which was stolen by unknown
thieves on 16.11.2020 for which he has lodged FIR giving rise
to Bettiah Town P.S Case No. 818/2020 dated 24.12.2020 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 20 liters country made liquor was recovered
by the police from said stolen motorcycle giving rise to
Chhauradano P.S. Case No. 33/2021 dated 04.02.2021 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 16.11.2020 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, East Champaran at Motihari 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	26.08.2021
Transmission Date	NA