

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15295 of 2021

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Radheshyam Yadav Son of Lal Mohar Yadav, Resident of Village - Dedhuwa,
Ward No. 9, Police Station- Bardaha, District - Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate, Araria.
3. The Additional Collector, Araria.
4. The Land Reforms Deputy Collector, Araria.
5. The Superintendent of Police, Araria.
6. The Station House Officer, Palasi Police Station, District - Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mrigendra Kumar, Adv
For the Respondent/s : Mr.Vikash Kumar (SC11)

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

Date : 03-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“That the instant application is being filed for issuance of an appropriate writ/writs, order/orders, direction/directions, commanding the respondents authority to release the Hero Splendor Motorcycle, bearing Registration No. BR-38X-5531, Chasis No. MBLHAW114LHH15947 and Engine No. HA11EVLHH15004, belonging to the petitioner, which has been seized by the police in connection with Palasi P.S. Case No. 39 of 2021 dated 27.02.2021 instituted for the offences under section

30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018, pending in the court of learned 2nd Additional District and Sessions Judge cum Special Judge, Excise, Araria.”

FIR was instituted by police on 27.02.2021 for recovery of 3 litre of illicit liquor (10 bottles each containing 300 ml) from the dickey of the motorcycle of petitioner, giving rise to Palasi P.S. Case No. 39 of 2021 dated 27.02.2021 under Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2018, and Niranjana Kumar Yadav who was riding the motorcycle was apprehended. It is further stated that petitioner is owner of the seized motorcycle and accused Niranjana Yadav had taken his motorcycle on some pretext and was misusing it for carrying illicit liquor.

It is further submitted that petitioner has received a notice from the Confiscating Officer for initiation of Confiscation Case No. 131/2021/ 30/2021-22.

The writ petition is disposed of with a direction to the **District Collector/Confiscating Officer, Araria** to conclude the confiscation case within 90 days from the date of receipt/production of copy of order passed by this Court, if show cause has already been filed or within 90 days from the date of filing of show cause, failing which **District Magistrate, Araria** shall provisionally release the vehicle of petitioner after

due identification of ownership of the vehicle and on production of ownership and registration 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 observation 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