

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15291 of 2021

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Ravi Bhushan Tiwari son of Nawal Kishore Tiwari Resident of Village- Ward
No. 6, Pipra Bakulahar, Police Station- Chanpatiya, District- West
Champaran. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department Government of Bihar, Patna.
 2. The District Magistrate Cum Collector, West Champaran at Bettiah.
 3. The Superintendent of Police, Bettiah West Champaran.
 4. The Officer In charge, Bairiya Police Station, District- West Champaran.
- Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anant Kumar Mishra, 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 : 13-09-2021

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

(I) To direct the respondent authorities to release the Hero
H.F. Delux motorcycle bearing registration No.BR22Y2091, Chassis No.
MBLHA11ATG9D16918, Engine No.HA11EJG9D47616, in favour of
petitioner.

(ii) For any other relief/ reliefs for which petitioner is found
entitled in the facts and circumstances of this case.”

Allegation is recovery of 43.560 liter of illicit 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 FIR Bairiya P.S. Case No. 35 of 2020 dated 31.01.2020 was registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 and since illicit liquor was recovered from motorcycle same became liable for confiscation under section 56 of the Excise Act.

Petitioner claims to be the owner of the vehicle and states that his vehicle was stolen by unknown thieves on 03.12.2019 for which he has lodged FIR giving rise to Bettiah Muffasil P.S Case No. 676 of 2019 for the offence punishable under Section 379 of IPC 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. Learned counsel for the petitioner further submits that confiscation proceeding has not been initiated as yet. Statement in this regard has been made in paragraph no. 5 of his petition.

Petitioner claims to be owner of the seized vehicle and same was stolen on 03.12.2019 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 West Champaran at Bettiah 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.

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	14.09.2021
Transmission Date	NA