

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15397 of 2021

=====

Niraj Kumar, Son of Late Ram Babu Singh, Resident of Raghopur Chak Singar, P.S. Jurawanpur, District - Vaishali at present residing at 8L-63, Housing Colony, Agamkuan, P.S. Agamkuan, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna.
4. The Officer - in - Charge, Danapur Police Station, Patna.
5. The Officer - in - Charge, Agamkuan Police Station, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Rajan Ghoshrave
For the Respondent/s : Mr.Vikash Kumar (Sc11)

=====

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

Date : 13-09-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief:-

“That this is an application praying for issuance of a writ of Mandamus or any other appropriate writ, order, or direction to the Respondents to release the Motor Cycle – HERO PASSION PRO (2018) of the petitioner bearing registration No. BR-01-DV-1043 having Chassis No. MBLHAR185J4F03044 and Engine No. HA10ACJ4F02971 which was seized in connection with Special Case (Excise) No. 1812 of 2021 arising out of Danapur P.S. Case No. 196/2021.”

It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was stolen by unknown thieves on 06.01.2021 for which he has lodged FIR giving rise to Agamkuan PS case No. 15 of 2021 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor and 50 litres of Mahua Liquor was recovered by the police from said stolen motorcycle giving rise to Danapur PS Case No. 196 of 2021 dated 11.03.2021 for the offence punishable under Section 414 of IPC and 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 06.01.2021 for which he had earlier instituted a case as such, petitioner cannot be held to be responsible for transportation of illicit liquor, however, since the vehicle was used for transportation of illicit liquor same is liable for confiscation. It is further submitted that no confiscation proceeding has been initiated as yet.

In view of the above, the writ petition is disposed of with a direction to the **Confiscating Authority/District Magistrate, Patna**, to immediately initiate the confiscation proceeding, if not already initiated, preferably within 15 days

from the date of production/receipt of a copy of the order passed by this Court and during pendency of confiscation proceeding provisionally release the vehicle of petitioner after due identification of ownership 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)

ranjan/-

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