

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15772 of 2021

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Pappu Kumar, Son of Sanjay Kumar, Resident of Village-Kazipur, Rasulpur,
P.S.-Rasulpur, District-Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Prohibition Excise and Registration Department, Government of Bihar, Patna.
2. The Principal Secretary, Prohibition Excise and Registration Department, Govt. of Bihar, Patna.
3. The District Magistrate, Saran at Chapra.
4. The Superintendent of Police, Saran at Chapra.
5. The Officer Incharge Manjhi, P.S.-Manjhi, District-Saran at Chapra.

... .. Respondent/s

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Appearance :

For the Petitioner/s	:	Mr.Radha Mohan Singh, Adv
For the Respondent/s	:	Mr.Vivek Prasad (GP7)
		Ms. Roona, Adv

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

Date : 16-09-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief:-

“(i) For issuance of writ in the nature of mandamus or any other appropriate writ for commanding the respondents for release of Black Colour Hero Splendor Motorcycle vide registration no. BR-04AE-4235, Engine No. HA10AHKHL11221, Chesis No. MBLHAW157KHL11104.

During pendency of the confiscation proceeding as the same has been seized in connection with Manjhi P.S. Case No. 143 of 2021 dated 15.05.2021 registered for the offences punishable under section 467, 468, 471 of the Indian Penal Code and Section 30(d) Bihar Prohibition & Excise Act, 2016.”

Learned counsel for the respondents submit that confiscation case being Confiscation Case No. 661 of 2021 has been initiated.

It has been submitted by learned counsel for petitioner that no illicit liquor has been recovered from the motorcycle rather wrapper of Royal Stag 120 pcs, 1000 pieces of lid (Dhakkan) of bottles of Royal Stag and Wine Barcode of 1200 pieces have been recovered from the bag kept on the motorcycle. It has been further submitted that no notice was ever served upon the petitioner with regard to initiation of confiscation proceeding.

The writ petition is disposed of with a direction to the **District Magistrate/Confiscating Officer, Saran at Chapra** 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/Confiscating Officer, Saran at Chapra** shall provisionally release the vehicle of petitioner after due identification of

ownership of the vehicle and 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 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