

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1209 of 2021

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Manoj Yadav, Son of Sardar Yadav, Resident of Village-Sasna, P.S.-Narari
Kala Khurd, District-Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Excise Government of Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The Superintendent of Police, Aurangabad.
4. The Officer In-Charge, Amba Police Station, District-Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Leelawati Kumari Aman Vishal, Advocates
For the Respondent/s	:	Mr. Vivek Prasad, GP 7

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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 : 20-07-2021

Heard learned counsel for the petitioner and learned

counsel for the State.

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

“ For issuance of appropriate writ/writs, order/orders,
direction/directions directing the respondent
authorities to release the seized Bajaj discover
motorcycle of the petitioner bearing registration
No. BR26D8826 having Chassis No.
MD2A57AZ5ERF59944 and Engine No.
PAZREF39329 in favour of the petitioner which
has been seized by the officer in-charge, Amba
police station, Aurangabad in connection with
Amba P.S. Case No. 67/2019 dated 18.07.2019



instituted for offences punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018 and further prayed for any other relief/(s) for which the petitioner may be found entitled to in the fact and circumstances of the case stated hereinafter. ”

Allegation is recovery of 68 litre 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 being Amba P.S Case No. 67 of 2019 was registered for the offence punishable under Section 30(a) of the Bihar Prohibition & Excise(Amendment) Act, 2018 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 **24.09.2018** for which he had given written complaint to **SHO, Badem O.P., Nabinagar, Aurangabad, dated 27.09.2018** 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. 14 of his petition.

In facts and circumstances of the present case when the vehicle of the petitioner was stolen and same was being misused by accused in trade of illicit liquor for which petitioner cannot be faulted and in view of the above, the writ petition is disposed of with a direction to the concerned Confiscating Authority/District Collector, to 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.

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	24.07.2021
Transmission Date	NA

