

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16387 of 2021

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Om Prakash Ram Son of Lal Bahadur Paswan, resident of Village-Garhani
Dachini Pati, P.S.-Charpokhari, District-Bhojpur Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Bihar, Patna.
2. The Excise Commissioner, Excise Department, Bihar Prohibition and Excise Act 2016 Patna Bihar.
3. The Excise Officer, Excise Department, Bihar Prohibition and Excise Act 2016 Patna Bihar.
4. The District Collector, District-Bhojpur, Ara, Bihar.
5. The Superintendent of Police, District-Bhojpur, Ara, Bihar.
6. The Officer in-Charge of Charpokhari Police Station, District-Bhojpur, Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jay Ram Prasad, Adv
For the Respondent/s : Mr. Vivek Prasad (GP7)

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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 parties.

Petitioner has prayed for the following reliefs:-

*“For issuance of an appropriate writ/writs
direction/directions, order/orders directing the respondents to
release the two Wheeler Vehicle (Hero Passion Motorcycle)
bearing Registration No. BR-03-AD-6066 Chassis No.
MBLJAW140LHF14221 Engine No. JAO6EWLHF15392 which is
seized in Excise Case No. 1056/2021 arising out of charpokhari
P.S. Case No. 93 of 2021 for the offence under Bihar
Prohibition & Excise Amendment Act, 2016.”*

Allegation is recovery of 7.9 litre of illicit foreign liquor

from a Jhola which was hanging on the motorcycle of the petitioner giving rise to Charpokhari P.S. Case No. 93 of 2021 dated 07.06.2021 under sections 30(a) of the Bihar Prohibition and Excise Act, 2018.

Learned counsel for the State submits that as there is recovery of illicit liquor from the aforesaid motorcycle, same is liable for confiscation.

In view of the above, the writ petition is disposed of with a direction to the **Confiscating Authority/District Magistrate, Bhojpur at Ara**, 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 conclude the confiscation proceeding within 90 days from the date of filing of show cause, failing which he 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