

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.16402 of 2021**

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Shambhu Prasad S/o Bramhanand Prasad R/o Vill- Keshari, P.S.- Ekma,  
District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Dept. of Excise, Govt. of Bihar, Patna.
2. The District Magistrate, Gopalganj at Gopalganj.
3. The Superintendent of Police, Gopalganj at Gopalganj.
4. The Officer-in-Charge, Kuchaikote Police Station, District- Gopalganj.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Anant Kumar Bhaskar  
For the Respondent/s : Mr.Lalit Kishore (Ag)

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

**Date : 17-12-2021**

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

“For issuance of appropriate writ or writs, direction or directions, order or orders commanding the appropriate respondent to release the Bolero bearing registration No.BR-04M5349 Chassis No.MA1XA2GHKD5A41564 Engine No.GHC4M950219 in favour of petitioner, which has been seized in connection with Kuchaikote P.S. Case No. 312/2020 after setting aside the order dated 31.7.2021 passed by the learned court of Addl. District & Sessions Judge-II Cum Spl. Judge Excise, Gopalganj.

It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was stolen by unknown thieves on 25.07.2020 for which he has lodged FIR giving rise

to Ekma P.S Case No. 288 of 2020 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor and 450 litres Country Made Liquor was recovered by the police from said stolen vehicle giving rise to Kuchaikote P.S. Case No. 312 of 2020 dated 11.08.2020 for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

Petitioner claims to be owner of the seized vehicle and same was stolen on 25.07.2020 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 confiscation proceeding being Confiscation Case No.494/21 has been initiated against the seized vehicle.

In the facts and circumstances of the case, the District Magistrate/Confiscating officer Gopalganj at Gopalganj 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.

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)**

Sanjay/-

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