

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16612 of 2021

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Md. Manjur Alam S/o Md. Muslim Miyan, Resident of Ward No.13, Chhatra Tol, P.S.-Bhagwanpur, District-Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principle Secretary, Bihar Excise Department at Patna.
2. The Excise Commissioner, Bihar Excise Department at Patna.
3. The Collector of District Begusarai at Begusarai.
4. The Superintendent of Police, Begusarai at Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Kumar, Advocate
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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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 learned counsel for the parties.

Petitioner has prayed for following relief:-

“For giving direction to respondent to release Apache Motorcycle bearing registration No.BR09AB2736, Chassis No.MD634BE44J2LA6444, Engine No.BE4LJ26A4015 which was seized in connection with Bhagwanpur P.S. Case No. 135/2021 for offence u/s 30(a) of Bihar Prohibition and Excise Act.”

Allegation is recovery of 360 ml of illicit liquor from the seized motorcycle on which two persons were found sitting giving rise to Bhagwanpur PS Case No. 135 of 2021 under

sections 30(a) of the Bihar Prohibition and Excise Act and both persons were arrested and motorcycle was seized.

Petitioner claims to be the owner of the seized vehicle and only 360 ml. illicit liquor has been recovered. It is further submitted that petitioner had no knowledge that 360 ml. of liquor is kept in his motorcycle. It is further submitted that no confiscation proceeding has been initiated against seized vehicle as yet.

In the facts and circumstances of the case, the **concerned District Magistrate/Confiscating officer, Begusarai at Begusarai** is directed to initiate confiscation proceeding, if not already initiated, and provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was 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/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2021
Transmission Date	NA