

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16622 of 2021

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Shailendra Kumar, Son of Shiv Narayan Kumar, Resident of Village/Mohalla- Ward No.3, Kesariya Road Chakiya, Police Station-Chakiya, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar.
2. The Collector-cum-District Magistrate, District- East Champaran.
3. The Superintendent of Police, District- East Champaran at Motihari.
4. The Excise Superintendent, East Champaran at Motihari.
5. The Sub Divisional Officer, Sadar, District- East Champaran.
6. The Assistant Sub-Inspector, Boarder Security Force, Kundwachainpur, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anil 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:-

“(i)For issuance of a writ in the nature of mandamus directing and commanding the respondents to release the Hero Glamour F1 motorcycle bearing Registration No.BR06AN6908, Chassis No.MB13A-06AKEGH05214, Engine No.JA06ELEGH05126 of the petitioner which has been seized in Excise Case No.130 of 2021 dated 14.03.2021 and the same was stolen on 15.07.2020 from the campus of Life Insurance Corporation (L.I.C.) Branch Chaniya for that Chakiya Police Station Case No.256 of 2020 dated 20.07.2020.

(ii) To grant any other relief/reliefs, order/orders for which the petitioner is entitled under law as well as on fact.”

It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was stolen by unknown thieves on 15.07.2020 for which he has lodged FIR giving rise to Chakiya P.S Case No. 256 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 180 litres Nepali Saufi wine was recovered by the police from said stolen motorcycle giving rise to Excise Case No.130 of 2021 dated 14.03.2021, and the culprits fled away leaving the motorcycle which was seized by the police.

Petitioner claims to be owner of the seized vehicle and same was stolen on 15.07.2020 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 and confiscation proceeding has been initiated.

In the facts and circumstances of the case, the District Magistrate/Confiscating officer East Champaran 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/-

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