

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16847 of 2021

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Mantu Kumar Gond, Son of Ramchandra Gond, resident of Village-Sultanpur, P.S. Raghunathpur, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary Department of Excise Govt. of Bihar, Patna.
2. The District Magistrate, Siwan.
3. The Superintendent of Police, Siwan
4. The Officer-in- Charge, Raghunathpur Police Station, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary, Advocate
For the Respondent/s : Mr.Vivek Prasad (G.P.-7)

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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 the following relief(s).

“(a) For issuance of appropriate writ in the nature of mandamus commanding and directing the respondent authorities to release the Platina motorcycle of the petitioner bearing Registration No. BR29 AG 9064, Chasis No. MD2A76AY8K RK80508 seized by the Raghunathpur police in connection with Raghunathpur police station Case No. 142 of 2019 registered under section 30 (A) and 41 (i) of Bihar Excise Prohibition amendment Act 2016, in favour of the petitioner or his representative, the vehicle in question has been seized with allegedly parked in the house (Albestor) of Ramanand Chaudhary

and nothing has been recovered from the motorcycle the case is presently pending in the court of the learned Additional Sessions Judge - 2nd-cum-Special Judge Excise, Siwan.

(b) For the issuance of any other relief/reliefs to which the petitioner may found entitled to in the facts and circumstances of the present facts and circumstance of the case in favour of the petitioner.”

Informant who is a police officer, has alleged that on 13.7.2019 on receiving secret information that accused Rama Nand Chaudhary has stored illicit liquor in his house, he along with other police personnel raided his house, fromwhere, 388.8 litre of foreign liquor was recovered.

It is further alleged that two motorcycles including the present one were parked outside the house of said Rama Nand Chaudhary and was suspected to have been used for transportation of illicit liquor.

It is submitted that although motorcycle was seized on 13.7.2019 but till date, no confiscation proceeding has been initiated against the seized vehicle of petitioner. It is further submitted that nothing was recovered from the bike of the petitioner and same was only parked there.

In the facts and circumstances of the case, the **District Magistrate/Confiscating officer, Siwan** is directed to initiate the confiscation proceeding forthwith, 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)

veena/-

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