

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16792 of 2021

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Anita Devi Wife of Rajendra @ Rajendra Sharma, of Village - Hirnahi, P.O.-
Kinnar Patti, P.S.- Jataha Bazaar, District - Kushinagar, U.P.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Excise, Government of Bihar.
2. The Commissioner Excise of Bihar, Patna.
3. The Collector, West Champaran at Bettiah.
4. The Superintendent of Excise, West Champaran.
5. The Officer in Charge, Police Station, Piprasi, Bagaha, District - West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP-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).

“ 1. That this application is being filed for issuance of an appropriate writ/writs, direction/directions commanding the respondents authorities to release the vehicle in question which is HERO MOTOCYCLE bearing Registration NO.- UP97AZ 3286, Engine NO - HA11ESLGG10367, Chessis NO.- MBLHAW147LGG16569, in favor of the petitioner who is the registered owner of the said vehicle that has been seized in Piparasi P.S case No.- 17/2021 dated 23/03/2021 for the offences under section 30(a) of Bihar

Excise and Prohibition Amended Act, 2018.

As there is recovery of 400 ml. country made liquor from the motorcycle of petitioner, as such same is liable for confiscation, however, petitioner claims to be the owner of the motorcycle and states that she was not aware that 400 ml country made liquor is kept in motorcycle which was seized by the police.

In the facts and circumstances of the case, the **concerned District Magistrate/Confiscating officer West Champaran at Bettiah** is directed to initiate confiscation proceeding, if not yet 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 her 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