

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17030 of 2021

=====

Yuvraj Kumar Son of Shiv Yadav Resident of Village- Nehaluchak, Police
Station- Nawada, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate, Nawada.
3. The Superintendent of Police, Nawada.
4. The S.H.O Govindpur Police Station, Nawada.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Birendra Kumar
For the Respondent/s	:	Mr.Vivek Prasad (Gp7)

=====

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):-

“(i) For issuance of writ in the nature of mandamus directing and commanding the respondents to release the vehicle / motor cycle bearing registration no.BR-27L-3303 in favour of petitioner which has been seized in Govindpur P.S. Case No. 132 of 2021 dated 09.06.2021 registered under Sections 30(a) and 41 of Bihar Prohibition and Excise Amendment Act, 2016.

(ii) For any other relief or reliefs to which the petitioner may be entitled.”

Allegation is recovery of altogether 142.125 liters illicit liquor from one motorcycle bearing registration No.JH-09AQ-2495 and not from the motorcycle of the petitioner.

It is submitted on behalf of the learned counsel for the

petitioner that in seizure memo, no recovery of illicit liquor has been shown against motorcycle of petitioner. Motorcycle containing illicit liquor belongs to co-accused Suni Sao and Manni Sao and not relates to the motorcycle of the petitioner and he has been made accused in this case on the ground that his brother, Shankar Kumar, along with other two persons were alleged to be in role of liner in committing said offence. It is further submitted that till date no notice regarding any confiscation proceeding has been served to the petitioner.

In the facts and circumstances of the case, the **concerned District Magistrate/Confiscating officer Nawada** is directed to initiate confiscation proceeding, if already not 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	
CAV DATE	
Uploading Date	13.12.2021
Transmission Date	