

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17094 of 2021

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Avnish Kumar Son of Sukhari Rai Resident of Village- Madhuban
Chakmahila, P.S.- Sitamarhi, Dist- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Sitamarhi.
2. The District Magistrate, Sitamarhi, District- Sitamarhi.
3. The Superintendent of Police, Sitamarhi, Dist- Sitamarhi.
4. The Sub-Divisional Police Officer, Sitamarhi Sadar, Dist- Sitamarhi.
5. The Officer in-charge of Sitamarhi Police Station, Sitamarhi, Dist- Sitamarhi.
6. Vikash Kumar Rai S/o not known the officer in-charge of Sitamarhi Police Station, P.S.- Sitamarhi, Dist- Sitamarhi.
7. The Jamshed Alam S/o not known A.S.I. Sitamarhi Police Station, Dist- Sitamarhi cum Investigating Officer of Sitamarhi P.S. Case No.- 37/2021.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, Advocate
For the Respondent/s : Mr.Kumar Manish (Sc5)

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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 issuance of a writ in the nature of mandamus directing and commanding to the respondents authority to release the motorcycle of the petitioner i.e., TVS Apache- registration No.BR30T 2449 its engine No.BE4CJ2514277 and Chassis No.MD634BE44J2C14032 which has been

seized by the respondent no.6 in connection with Sitamarhi P.S. Case No. 37/2021 registered u/s 413/34 of I.P.C. and Section 30(A) of Bihar Prohibition and Excise Act 2018 and for any other appropriate writ/ writs, direction/directions, order/orders as this Hon'ble Court thinks fit and proper in the facts and circumstances of this case.”

Allegation is recovery of 750 ml. illicit liquor from the seized vehicle of which petitioner is owner. It is further submitted that nothing was recovered from the seized vehicle and petitioner has been falsely implicated in this case showing false recovery of liquor, as there was some altercation between him and the police.

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 Sitamarhi** is directed to initiate the 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	
CAV DATE	
Uploading Date	13.12.2021
Transmission Date	