

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17298 of 2021

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Dileep Kumar son of Anarash Dom resident of Village- Chandi, Ward No.12,
P.O.- Narhi Chandi, Police Station- Bhojpur, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-cum- Collector, Patna.
3. The Senior Superintendent of Police, Patna.
4. The Commissioner, Excise Department, Patna.
5. The Officer-in- Charge, Sachivalaya Police Station, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manish Kumar No2, Advocate
For the Respondent/s : Mr.Vikash Kumar (S.C.11)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 17-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“That, this present writ application is being filed for issuance of appropriate writ/writs, order/orders, direction/directions to the Respondent authorities to release the vehicle (Honda Shine Motorcycle) of the petitioner bearing Registration No. BR-01DP-4861 having Engine No. JC73E72000392 and Chassis No. ME4JC737BJ7000252 in favour of the petitioner, which was seized by the Sachivalaya Police Official, Patna in connection with Special Case No. 6314 of 2019 arising out of Sachivalaya P.S. Case No. 183 of

2019 which has been registered for offence under Section 279 of the Indian Penal Code and Section 30(a) and 37(b)(c) of the Bihar Prohibition and Excise Act, 2016 and/or for any other relief or reliefs to which the petitioner may be found entitled to in course of hearing of this writ application.”

Petitioner claims to be the owner of the seized motorcycle and no illicit liquor was recovered from his vehicle, however, from trouser of accused Amit Kumar who was riding the motorcycle, 160 ml. of illicit liquor was recovered and he was found in drunken condition. It is further submitted that no confiscation proceeding as of now has been initiated against the seized vehicle.

In the facts and circumstances of the case, District Magistrate/Confiscating Authority, Patna is directed to initiate the confiscation proceeding forthwith, if not yet initiated and to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle 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, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	