

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17462 of 2021

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Jitendra Kumar, Son of Sri Yogendra Singh, Resident of Village - Bhola Bigha, P.S. Islampur, District Nalanda. At present Resident of Brahmpur, Jaganpur, P.S. Ram Krishna Nagar, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Superintendent of Police, Patna.
4. The Deputy Superintendent of Police, Kotwali, District Patna.
5. The Officer - in - Charge, Ram Krishna Nagar Police Station, District Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey, Advocate
For the Respondent/s : Mr. Lalit Kishore (Ag)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 23-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

(I) For issuance of writ in the nature of mandamus commanding and directing the respondents authority to release the vehicle Glamour Motorcycle bearing Registration No.BR01EL-5610, Chassis No.MBLJAW100KGJ20698, Engine No.JA06ERKG19875 which was seized in connection with Gopalpur P.S. Case No. 263/2021 dated 1.8.2021 registered under Sections 30(a)/37(b)(c) of the Bihar Prohibition & Excise Act, 2018 in favour of the petitioner who is owner of the vehicle.

(ii) And for any other relief/reliefs for which the petitioner is found to be entitled in the eye of law.”

Allegation is recovery of 500 ml. of illicit liquor from the possession of one Pintu Kumar who was sitting in between two persons on the motorcycle giving rise to Gopalpur P.S.

Case No. 263/2021 dated 1.8.2021 registered under Sections 30(a)/37(b)(c) of the Bihar Prohibition & Excise Act, 2018.

Petitioner claims to be the owner of the said vehicle and only 500 ml. illicit liquor has been recovered from possession of co-accused, Pintu Kumar, who was sitting in between petitioner and other co-accused and they were found in the drunken condition. It is further submitted that no confiscation proceeding has been initiated till date.

In the facts and circumstances of the case, the concerned District Magistrate/Confiscating officer, Patna is directed to initiate 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/- Ranjan

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