

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17466 of 2021

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Ram Swarath Baitha, Son of Baldev Baitha, Resident of Village /Mohalla -
Jamua, Ward No. 7, Police Station - Bairgania, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar.
2. The Collector - Cum - District Magistrate, District - East Champaran
3. The Superintendent of Police, District - East Champaran at Motihari.
4. The Sub-Divisional Officer, Sikrahana at Dhaka, District - East Champaran.
5. The Sub Divisional Officer, Sadar, District - East Champaran.
6. The Officer - in - Charge, Dhaka Police Station, District - East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate
For the Respondent/s : Mr. Kumar Manish (SC-5)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 10-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“ i) For issuance of a writ in the nature of
Mandamus directing and commanding the
respondents to release the Hero Glamour F1
motorcycle bearing Registration No. BR-
3oU-8333, Chasis No.
MBCJASO32JD09263, Engine No. -
JA06ERJGD30973 of the petitioner which
has been seized in Dhaka Police Station
Case No. 304 dated 16.06.2021 and the
same was stolen on 26.05.2021 from the
door of Shambhu Gupta at Village
Madhubani Ashram, P. S. Chiraiya, District-

East Champaran for that Dhiraiya Police Station case No. 141 of 2021 dated 05.06.2021 u/s 379 1. P. C.

ii) To grant any other relief/reliefs, order/orders for which the petitioner is entitle under law as well as on fact.”

It is submitted that 300 pouch, each containing 300 ml. of Nepali Country made liquor was recovered from the motorcycle of petitioner, which was stolen on 26.05.2021 by some unknown persons, while he had gone to attend a marriage ceremony, for which he has lodged FIR on 05.06.2021 giving rise to Chiraiya P.S. Case No. 141/2021 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor which was seized by the police on 16.06.2021.

Since seized vehicle was stolen by some miscreants, petitioner cannot be held to be responsible for transportation of illicit liquor, however, since the vehicle was used for transportation of illicit liquor, same is liable for confiscation.

In the facts and circumstances of the case, the District Magistrate/Confiscating officer, East Champaran is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was stolen and subsequently recovered and 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)

Rajiv/veena-

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