

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17444 of 2021**

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Ashutosh Kumar Jha, son of Umesh Jha, resident of Village-Vidyapatnagar,  
Khojsarai, P.S. Kherajpur, Darbhanga, District Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through its the Principal Secretary, Department of Bihar Prohibition and Excise, Bihar, Patna.
2. The Collector-cum-District Magistrate, Madhubani.
3. That Superintendent of Police, Madhubani.
4. The Officer-In-Charge, Basopatti Police Station, Madhubani.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Pankaj Kumar Das, Advocate  
For the Respondent/s : Mr.Vikash Kumar ( SC-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 : 10-12-2021**

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“I. For issuing appropriate writ(s)/direction(s) commanding the respondents to release the Pulsar Motorcycle bearing registration No. BRO7AD 5493, Chasis No. MD2A11CYXJRA22252 which was seized in connection Basopatti P.S. Case No. 154/19 corresponding to G.R. 1253/19, under section 272, 273 of the Indian Penal Code and 30(a) of Excise Act, Madhubani, although the vehicle in question was checked by police on road where it is alleged 27 lt. Nepali wine were recovered from Jute bag.

II. To grant any other relief/reliefs, order/orders,

direction/directions for which the petitioner will be entitled in the law or in the facts of the case.”

It is submitted on behalf of the petitioner that he is an Advocate, practicing in the Civil Court, Darbhanga and allegation is recovery of 27 litres of Nepali country made liquor from his motorcycle which was stolen on 12.06.2019 by some unknown persons, for which he has lodged FIR on 14.06.2019 giving rise to Bahadurpur P.S. Case No. 280/19 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 10.07.2019.

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 and confiscation proceeding has been initiated.

In the facts and circumstances of the case, the District Magistrate/Confiscating officer Madhubani 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-

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| CAV DATE          | NA   |
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