

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17701 of 2021**

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Jameel Ahamad Son of Jakaeer Ahmad, Resident of Village - Ward No. 3,  
Dumariya, Police Station- Raxaul, District - East Champaran.

... .. 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, East Champaran at Motihari.
3. The Superintendent of Police, Motihari, East Champaran.
4. The Officer In Charge, Bairiya Police Station, District - West Champaran.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Anant Kumar Mishra, Adv  
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 : 10-12-2021**

Heard learned counsel for the parties.

Petitioner has prayed for the following relief:-

“To direct the respondent authorities to release  
the Honda Shine motorcycle bearing Registration No. BR  
05M 9982 & Chasis No. ME4JC651EF7105785, Engine  
No. JC65E-70158639 , in favour of petitioner.”

It is submitted on behalf of petitioner that he is the  
owner of the seized vehicle which was stolen by unknown  
thieves on 15.03.2020 for which he has lodged FIR giving rise  
to Raxaul P.S Case No. 98 of 2020 on 16.03.2020 for the  
offence punishable under Section 379 of IPC, and same was  
being used by the miscreants for transportation of illicit liquor

and 36 litres of illicit liquor was recovered by the police from said stolen motorcycle giving rise to Bairiya P.S. Case No. 135 of 2020 dated 29.03.2020 for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

Petitioner claims to be the owner of the seized vehicle and same was stolen on 15.03.2020 for which he had earlier instituted a case as such, 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, **District Magistrate/Confiscating Officer, East Champaran at Motihari**, 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)**

ranjan/-

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