

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17869 of 2021

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Mithun Kumar Paswan @ Mithun Paswan Son of Chetanya Paswan Resident
of Village - Sakrogarh, Police Station- Girbabari O.P., District- Sahibganj,
State - Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Bhagalpur.
2. The Assistant Commissioner, Excise, Bhagalpur.
3. The Superintendent of Police, Bhagalpur.
4. The Officer - in - Charge, Kotwali Police Station, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pankaj Kumar
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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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:-

“That this petition is being filed for issuance of appropriate writ/writs, order/orders, direction/directions especially in the nature of ‘Mandamus’ for commanding the Respondents to release the Royal Enfield Bullet Motorcycle Model No. 350 ABS (Gun Metal Grey Colour) bearing Registration No. JH17R-3266, Chassis No. ME3U3S5C2JL309638, Engine No. U3S5C2JL277502 in favour of the petitioner who is owner of this offended vehicle which has been seized on 02.03.2019 and being subjected to confiscation proceeding in connection with Kotwali Police Station Case No. 161 of 2019 dated 03.03.2019 instituted under Section 30(A) and 37(B) of Bihar Prohibition Act, 2016 but still no confiscation proceeding has been initiated till dated.”

Allegation is of recovery of 375 ml each from three

persons boarded on the motorcycle of the petitioner giving rise to Kotwali P.S. Case No. 161 of 2019 dated 03.03.2019 for the offences punishable under Sections 30(A) and 37(B) of Bihar Prohibition Act, 2016.

In the facts and circumstances of the case, the **concerned District Magistrate/Confiscating officer** Bhagalpur 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 her 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/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.12.2021
Transmission Date	NA