

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18294 of 2021

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Bachchu Yadav, Son of Late Gajadhar Yaddv, resident of Village-Akauni,
Parsama, P.S. Halasi, Ramgarh Chowk, District-Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Excise Commissioner, Govt. of Bihar, Patna.
3. Excise Superintendent, Lakhisarai.
4. Sub-Inspector Excise, Lakhisarai.
5. District Magistrate, Lakhisarai.
6. Officer-in-charge Halsi Ramgarh Chowk P.S, Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kr Singh No.1, Advocate
For the Respondent/s : Mr.Lalit Kishore (A.G.)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-12-2021

Heard learned counsel for the petitioner.

Petitioner has prayed for the following relief(s):-

For issuance of an appropriate writ/ writs, direction/ directions, order/ orders directing and commanding the respondents to release the motorcycle bearing registration no. BR 53B 9962, Chasis No. MBLH10CGGHD00291, Engine No. HA10ERGHD00185 as the petitioner is owner of the said vehicle which has been seized in Halsi Ramgarh P.S. Case No. 67 / 2021 for the offence under section 30(a) Bihar Prohibition and Excise Act, 2018.

(ii) For issuance of any other appropriate writ/writs, order/orders, direction/directions as your Lordship may deem fit and proper.”

Petitioner claims to be the owner of the seized

motorcycle and said motorcycle was not being driven by the petitioner rather one Rahul Kumar was driving the motorcycle and was apprehended on the spot. It is further submitted that only 750 ml. illicit liquor was recovered and petitioner was not aware that said illicit liquor was kept in his vehicle. It is further submitted that confiscation proceeding has not been initiated as yet.

In the facts and circumstances of the case, concerned District Magistrate/Confiscating Authority is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle 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, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	