

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18297 of 2021

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Santosh Kumar Son of Brahmdev Ray Resident of Village - Parsauni Ward
No. - 5, P.S. - Pupri, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Registration, Excise and prohibition Department, Government of Bihar, Patna.
2. The Collector/ District Magistrate - Sitamarhi, District - Sitamarhi.
3. The Excise Commissioner, Tirhut, District- Muzaffarpur.
4. The Senior Superintendent of Police Sitamarhi.
5. The Superintendent of Excise Sitamarhi.
6. The S.H.O. of Pupri Police Station, District- Sitamarhi.
7. The S.I. Kasim Rai of Pupri police station, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Virendra Kumar, Advocate
For the Respondent/s	:	Mr.Vikash Kumar (S.C.11)

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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 parties.

Petitioner has prayed for the following relief(s).

“I. For issuance of an appropriate writ/writs/order/orders/direction/ directions including a writ preferably in the nature of Mandamus commanding and directing upon the respondents to release the Apache motorcycle bearing registration No. BR-30AB/4822, Chassis No.- MD634AE81M2A15201, Engine No AE8AM-2814739, in favor of petitioner which has seized on 16-06-2021 in connection with Pupri P.S. Case No. 211 of 2021 dated 16-06-2021 registered under Sections 414 of Indian Penal Code and 30(a) of Bihar Prohibition and Excise Act, relating to recovery of 26 bottles Nepal Pal-Pal Saufi wine

each bottle 300 ml., Total 7.800 liters from CBZ Motorcycle without registration number and 60 bottles Nepali Pal-Pal Saufi wine each bottle 300 ml., Total 18.00 liters containing in a bag, from the mango orchard of Payare Khan and Rahish Khan kept confined in bush.

II. To any other relief/s to which the petitioner is entitled in the facts and circumstances of the case.”

Petitioner claims to be the owner of the seized motorcycle and said motorcycle was not being driven by him rather one co-villager Ramesh Yadav who took his motorcycle to attend the function of his relative and nothing was recovered from his motorcycle. It is further submitted that alleged recovery was made from another motorcycle, which does not belongs to petitioner. 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	