

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18944 of 2021

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Kundan Kumar, Son of Ramashish Basfor, Resident of Salimpur Ahra,
Domkhana Gali no.-3, P.S.- Gandhi Maidan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The District Magistrate-cum- Collector Patna.
4. The Senior Superintendent of Police Patna.
5. The S.H.O. of Police, Police Station Gandhi Maidan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Bihari Singh, 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 : 23-12-2021

Heard learned counsel for the parties.

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

“For issuance of a writ in the nature of Mandamus for direction to respondent authorities to release the Motor Cycle of (I) Kundan Kumar (petitioner) registration no. BE-01FE-8533, Engine No. G3N4EOI49797, Chasis no. ME1RG6714M0093115, which has been seized by the police in connection with Gandhi Maidan P.S.Case No. 408/2021, U/s 30(a), 37(b) of Bihar Prohibition and Excise Act, 2016 and give other appropriate relief/reliefs(s) to which the petitioner is found entitled in the facts and



circumstances of the present case.”

Allegation is recovery of 150 ml illicit liquor from the waist of one Vijay Kumar, along with the motorcycle in question, giving rise to Gandhi Maidan P.S.Case No. 408/2021, U/s 30(a), 37(b) of Bihar Prohibition and Excise Act, 2016.

Petitioner claims to be the owner of the said vehicle and only 150 ml. illicit liquor has been recovered. It is further submitted that no confiscation proceeding has been initiated till date.

In the facts and circumstances of the case, the **concerned District Magistrate/Confiscating officer, Patna** 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 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.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	03.01.2022
Transmission Date	

