

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19182 of 2021

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Govind Kumar, S/o-Raghunath Mahto, R/o-Village-Justice Rajkishore Path,
Budh Murti, P.S.-Kadamkuan, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The District Magistrate, Patna, Bihar.
3. The Superintendent of Police, Patna, Bihar.
4. The Deputy Superintendent of Police, Patna Sadar, Bihar,
5. The Station House Officer (S.H.O.) Town Police Station, Patliputra, Patna,
Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Onkar Nath, Advocate

For the Respondent/s : Mr.Vivek Prasad, GP-7

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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 following reliefs:



- i. Commanding the respondent authorities particularly the respondent no.-2 to release the vehicle (Scooty) of petitioner which has been seized in connection with special case no.- 6138/2020 arising out of Patliputra P.S. Case No.-385/2020 which is pending before the court of Special Judge Excise, Patna and presently pending for initiation of confiscation proceeding before the learned court of District Magistrate, Patna.
- ii. Further commanding the respondent authorities to follow with the very provisions of Bihar Prohibition of Excise Act, 2016.
- iii. Grant of any other incidental or consequential relief/reliefs, for which the petitioner can be found entitled for.

Allegation is recovery of 180 ml. of illicit liquor each from a Scooty and from the possession of two accused person travelling on the said Scooty giving rise to Patliputra PS Case No. 385/2020 under section 30(a) of the Bihar Prohibition and Excise Act, 2018.

Petitioner claims to be the owner of the said vehicle and only 540 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, Muzaffarpur** 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.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	24.12.2021
Transmission Date	

