

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19482 of 2021

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Raj Kumari wife of Ram Kewal Paswan Resident of Village- Maharajganj,
Ward no. 13, P.S. Madhubani, Dist. Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Govt. of Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Superintendent of Police, Madhubani.
4. The Deputy Superintendent of Police, Madhubani, Dist. Madhubani.
5. The Station Head Officer, Madhubani Town, Dist. Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Jha, 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 THE CHIEF JUSTICE)

Date : 23-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

- I. To issue a writ in the nature of mandamus to direct the respondents to release the vehicle of petitioner bearing Reg. no. BR 32V-7870, Chassis no. BD634BE48J2B10661, Engine no.-BE4BJ2710472, Vehicle class MCY, which has been seized in connection with Madhubani Town P.S. Case no.213/2021 for the offences under section 272, 273, 34 of I.P.C. and 30(a), 41 of Bihar Prohibition & Excise Act which was registered on 18.07.2021 by the S.H.O. Madhubani Town police station, Dist.-Madhubani.
- II. To grant any other relief for which petitioner is entitled to in connection with released of said vehicle.”



Petitioner claims to be the owner of the seized vehicle. It is further submitted that only 720 ml. illicit liquor was allegedly recovered from the motorcycle of the petitioner which was seized along with other vehicles 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)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.12.2021
Transmission Date	

