

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19503 of 2021

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Shambhu Kumar Son of Hardev Prasad Resident of Chakmabali, P.S. Kosul,
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 Patrakarnagar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Bihari Singh, Advocate
For the Respondent/s : Mr.Kumar Manish (SC 5)

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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) Shambhu Kumar (petitioner) registration no-BR-01EK-3455, Engine no-HA10AGKHEB2161, Chasis no-MBLHAW093KHE71231, Which has been seize by the police in connection with Patrakarnagar P.S. Case No. 191/2021, U/S-30(a), of Bihar Prohibition and Excise Act, 2016 and give other appropriate relief/reliefs to which the petitioner is found entitled in the facts and circumstances of the present case.”

Petitioner claims to be the owner of the seized



vehicle. The petitioner was not present on the spot and has no knowledge about the seized liquor. It is further submitted that only 0.375 litre illicit liquor was recovered. 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	

