

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19976 of 2021

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Rajeev Kumar Son of Om Prakash Sah, Resident of Village- English, Ward
No. 04, Vidyapith Chowk, P.S. and District - Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
3. The Collector-cum-District Magistrate, Lakhisarai.
4. The Superintendent of Police, Lakhisarai.
5. The Officer-in-Charge, Lakhisarai, P.S., District - Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rabi Bhushan, 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 following relief:-

(I) For a direction upon the respondents, particularly
respondent no.3 to 5 to release the Royal Enfield Bullet Motor



Cycle bearing Registration No. BR08G-8514, Chassis No.ME3U3S5C2JD155274, Engine No.U3S5C2JD116028 in favour of the petitioner which was seized in connection with Lakhisarai P.S. Case No. 648 of 2021 on 28.09.2021 registered u/s 30(a), 32(iii) of the Bihar Prohibition and Excise Act 2018.”

Allegation is recovery of 750 ml. of illicit liquor from the seized vehicle giving rise to Lakhisarai P.S. Case No. 648 of 2021 registered u/s 30(a), 32(iii) of the Bihar Prohibition and Excise Act 2018.”

Petitioner claims to be the owner of the said vehicle and only 750 ml. illicit liquor has been recovered. It is further submitted that although petitioner is liable to be criminally prosecuted for offence committed under the Excise Act but his vehicle cannot be said to be liable for confiscation under the Excise Act and recovery of 750 ml. of illicit liquor cannot amount to carrying/transporting illicit liquor.

In the facts and circumstances of the case, the concerned District Magistrate/Confiscating officer, Lakhisarai 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)

Amrendra/-PKP

AFR/NAFR	
CAV DATE	
Uploading Date	03.01.2022
Transmission Date	

