

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20404 of 2021

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Akhilesh Kumar son of Asharfi Ram Resident of Village- Pipra, P.S.- Govindganj, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principle Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Collector-cum-District Magistrate, East Champaran.
4. The Superintendent of Police, East Champaran.
5. The Superintendent of Excise, East Champaran.

... .. Respondent/s

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Appearance :

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

Date : 23-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

- (a) To issue an appropriate writ/order/direction, in the nature of writ of Mandamus directing the respondent Collector to release Hero Splendor Plus motorcycle bearing registration BR05AL9831, which has been illegally seized by the S. I. in Govindganj P. S. Case No. 279 of 2021 dated 12.09.2021 instituted for the offences under sections 272, 273 of the Indian Penal Code, and 30(a) of the Bihar Prohibition and Excise Act, 2016.
- (b) To grant any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.



Petitioner claims to be the owner of the seized vehicle and said vehicle was not being driven by the petitioner rather another person was driving the vehicle. It is further submitted that only 180 ml. of foreign liquor was recovered and petitioner was not aware about the said illicit liquor. It is further submitted that confiscation proceeding has not been initiated as yet.

In the facts and circumstances of the case, District Magistrate/Confiscating Authority, East Champaran 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)

P.K.P./Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	24.12.2021
Transmission Date	

