

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20533 of 2021

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Shailendra Ray @ Salender Ray @ Shailender Ray Son of Sarwadev Ray @ Sarpdev Ray, Resident of Village Chanana, Channa, P.S. Madhourah, District - Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate - Cum - Collector, Saran at Chapra.
3. The Assistant Excise Commissioner, Saran at Chapra.
4. The Superintendent of Excise, Saran at Chapra.
5. The Vehicle Inspector, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dewendra Narayan 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 THE CHIEF JUSTICE)

Date : 23-12-2021

Petitioner has prayed for the following relief(s):-

- (i) For release of petitioner's Glamour motorcycle vehicle, bearing its Registration Number as BR04Z-5642, Chassis No. MBLJAR028JGE62714 and Engine No. JA06ERJGE72419, in favour of petitioner, which has been got seized in connection with Awatar Nagar P.S Case No. 186 of 2021 registered for the offences punishable under sections 304(A), 279, 337, 338 of the I.P.C and sections 30(a) of the Bihar Prohibition and Excise Act, 2016 on 09-07-2021, seized for the alleged violation of Excise Laws.

And



(ii) Also for restraining the respondent authorities from initiation and completion of confiscation proceeding against petitioner's Glamour motorcycle vehicle, bearing its Registration Number as BR04Z-5642, seized in connection with Awatar Nagar P.S Case No. 186 of 2021.

And

(iii) Also for any other relief/reliefs for which the petitioner is found entitled in the eye of law.

It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was stolen by unknown thieves on 12.05.2021 for which the brother of the petitioner has lodged FIR on 14.05.2021 giving rise to Amnour P.S. Case No. 117 of 2021 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor and 50 litres of illicit country made liquor was recovered by the police from said stolen motorcycle giving rise to Awatar Nagar P.S. Case No. 186 of 2021 dated 09.07.2021 for the offence punishable under Sections 304(A), 279, 337 and 338 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

Petitioner claims to be owner of the seized motorcycle and same was stolen 12.05.2021 for which his



brother had earlier instituted a case on 14.05.2021 as such, petitioner cannot be held to be responsible for transportation of illicit liquor, however, since the vehicle was used for transportation of illicit liquor same is liable for confiscation.

In the facts and circumstances of the case, District Magistrate/Confiscating officer, Saran at Chapra, is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was stolen and subsequently recovered and 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	24.12.2021
Transmission Date	

