

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20518 of 2021

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Avinash Kumar Son of Sri Raj Blan Singh, Resident of Village - Chibilli, P.O.
- Nisarpura, P.S. - Beur, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Superintendent of Police, Patna.
5. The Station House Officer, Beur Police Station, District - Patna.
6. The Station House Officer, Bypass Police Station, Sub-Division - Patna City, District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Advocate
For the Respondent/s : Mr. Vivek Prasad, G.P.-7

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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):-

(1) The petitioner prays to command the respondents to release the Hero-Glamour Motorcycle bearing Registration No.-BR01DE0138, Engine No.-JA06EJG9H09753, Chassis No.-MBLJA06AMG9H09872, in his favour, which Motorcycle was stolen / theft on 25.01.2021 at about 02:30 PM in the day, for which the petitioner



lodged the case in Beur Police Station as Beur P.S. Case No.42/2021 for the offence Under Section 379 of the IPC dated 26.01.2021, and later on this vehicle was seized by the Police of Bypass Police Station Patna City on 27.01.2021 with 10 liters of Mahuwa-Wine from the possession of an other person Jitendra Kumar S/O Raj Banshi Rai, R/O Mohalla- Kaira Bazar, P.S.- Walsalami, Patna City, Patna and on enquiry & inspection this Motorcycle was found with changed Reg. No./ Duplicate Reg. NO.BR-01-ET-6123 rather, it was the vehicle of the Petitioner bearing Reg. no. BR01DF0138, for which Patna City Bypass P.S. Case No.28/21 was lodged on 27.01.2021 at about 16 PM for the offence U/S 30(a) of Bihar Excise & Prohibition Act 2016 and U/S 467, 420, 471 and 414 of the IPC giving rise to Patna Excise Special Case 730/21.

- (ii) The prayer is made to command the state respondents to compensate the petitioner because till now he has already spent at least Rs.20000/- in Court process & on advocates, whereas the totally fault of administration of Bihar Govt., in aforesaid view, because after theft, which thief is carrying what article, the petitioner is not liable for that.



It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was stolen by unknown thieves on 25.01.2021 for which he has lodged FIR giving rise to Beur P.S. Case No. 42/2021 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor and 10 litre of illicit country made liquor was recovered by the police from said stolen motorcycle giving rise to Bye Pass P.S. Case No. 28 of 2021 dated 27.01.2021 for the offence punishable under Sections 467, 468, 420, 471 and 414 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 25.01.2021 for which he had earlier instituted a case 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, Patna**, 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	

