

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20840 of 2021

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Jitendra Kumar Son of Daso Saw, Resident of Village-Par Hatiya Nimtar, P.O.
and P.S.-Hisua, District-Nawada (Bihar),

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Excise Department Govt. of Bihar, Patna.
2. The District Magistrate - Cum-Collector Nawada.
3. The Superintendent Excise Department, Nawada.
4. The Officer-in-Charge, Hisua Police Station, District -Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Mishra, Advocate
For the Respondent/s : Mr. Lalit Kishore, AG

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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. That this mandamus writ application has been filed for issuance of direction to the Respondent No.2 the District Magistrate-Cum-Collector Nawada for releasing the Glamour Motor Cycle bearing Registration No.BR-27E/1798, Engine No.JA06ELEGF02236 and Chassis No.-MBLJA06AKEGF02245 which was seized by Excise Department Nawada vide Letter No.147 dated 15.02.2021 for the charge



of Transporting 18000 litre Foreign Liquor vide P.R.O. No.-55 dt-25.01.2021 and is pending for confiscation in the favour of Government corresponding to Case No.68(E)2021 in the open sky of police station.

It is submitted on behalf of petitioner that he is the owner of the seized vehicle which was stolen by unknown thieves on 17.12.2020 for which he has lodged FIR giving rise to Hisua P.S. Case No. 492 of 2020 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor and 18 litre of illicit foreign liquor was recovered by the police from said stolen motorcycle giving rise to Case No. 68(E) of 2021 under the provisions of Bihar Excise and Prohibition Act, 2016.

Petitioner claims to be owner of the seized motorcycle and same was stolen 17.12.2020 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, Nawada, 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	

