

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1418 of 2022

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Rinku Devi Wife of Satyendr Yadav Resident of Village- Baliwan Raimal,
Baliwan Sagar, P.S.- Vishambharpur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Prohibition Excise and Registration Department (Excise), Bihar, Patna
2. The District Magistrate, Gopalganj
3. The Superintendent of Police, Gopalganj
4. The S.H.O. Vishambharpur, District Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shyam Kuamr, Advocate
For the Respondent/s : Mr. Vikash Kumar (Sc 11)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 22-04-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

- i. For issuance of appropriate writ in the nature of *Mandamus* directing and commanding the respondent authorities to release the Vehicles namely Hero Motor Corp HF DELUX HFND bearing Registration No. BR28W-2931, Engine No. HA11ENK4G12222 and Chassis No. MBLHAW035K4C06082 in favour of the petitioner which has been seized in connection with Bishambharpur P.S. Case No. 163 of 2021 registered on 20.12.2021 under Section 30(a) of Bihar Prohibition and Excise Act, 2018.

- ii. For issuance of appropriate writ in the nature of *Mandamus* directing and commanding the respondent authorities to release the Vehicles namely Hero Motor Corp HF DELUX HFND in the favour of the petitioner on the ground that no any offending material/ illicit liquor was recovered from the motorcycle of the petitioner.
- iii. For issuance of appropriate writ in the nature of *Mandamus* directing and commanding the respondent authorities to release the Vehicles namely Hero Motor Corp HF DELUX HFND in the favour of the petitioner on the ground vehicle of the petitioner is lying under open sky in the police station as nobody is there to take care of the vehicle.
- iv. For issuance of any other relief or relief(s) for which the petitioner is entitled for.

Allegation is recovery of 18 liter of illicit liquor from the seized pulsar motorcycle (Engine No.DHXRLJ 61708, Chassis No.MB2B64BXXLRJ01551) of co-accused and not from the motorcycle of the petitioner.

Petitioner claims to be the owner of seized vehicle bearing Registration No.BR28W-2931, Engine No. HA11ENK4G12222 and Chassis No.MBLHAW035K4C06082, on which it is alleged that two persons were sitting and acting as liner. Nothing has been recovered from the motorcycle of the petitioner.

In the facts and circumstances of the case, **the District Magistrate/Confiscating Officer concerned** is directed to

provisionally release the vehicle of petitioner after due identification of ownership of the vehicle 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 aforesaid observation and direction, this writ

petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.04.2022
Transmission Date	NA