

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1806 of 2022

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Gulzar Ansari Son of Ansar Ansari Resident of Village- Jalley (West), Nadaf Mohalla, Post Office- Jalley, Police Station- Jalley, District- Darbhanga, State- Bihar, Mobile No. 9939092910.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise, Prohibition and Registration Department, Government of Bihar, Patna.
2. The Collector-cum- District Magistrate, Sitamarhi.
3. The Superintendent of Excise, Sitamarhi.
4. The Deputy Superintendent of Police, Pupri, District- Sitamarhi.
5. The Officer- In- Charge of Pupri Police Station, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mazharul Hassan, Advocate
For the Respondent/s : Mr.Vikash Kumar (S.C. 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 : 18-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“(i) That this is an application for issuance of an appropriate writ/order/direction for release of petitioner’s Apache Motorcycle bearing Registration No. BR07AC-5014, Engine No. B.E. 4AI2752509, Chassis No. MD634BE4012A54621, which has been seized by Pupri Police on 13.12.2021 and registered a case vide Pupri Police Station Case No. 409 of 2021 under Section 414 of Indian Penal Code and 30(a) of Bihar Prohibition and Excise, Amendment Act, 2016 and further to order for giving possession of the Apache Motorcycle in question to the petitioner.”

Petitioner claims to be the owner of the seized motorcycle and as per FIR and seizure memo, no recovery was made from seized motorcycle and allegation of recovery of 750 ml. illicit liquor is from accused Sonu Sah.

Petitioner is not named in the FIR and nothing has been recovered from his motorcycle.

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

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	