

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2364 of 2022

Md. Shanawaz Son of Shekh Rustam Resident of Gobindpur, Saidpur, Police
Station- Pirpainti, District- Bhagalpur, At present resident of Road No.15,
Haroon Nagar 2nd, P.S.- Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Excise Commissioner, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Patna.
3. The Senior Superintendent of Police, Patna.
4. The S.H.O., Chowk Police Station, Patna City, Patna.
5. The Investigating Officer, Chowk P.S. Case No.353/2020 P.S. Chowk (Patna
City), Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Md. Obaidullah, Advocate
For the Respondent/s : Mr.Lalit Kishore (A.G.)

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 the following relief(s).

- (i) For issuance of a writ in the nature of 'mandamus' directing the concerned respondents to release the motorcycle bearing Registration No. BR10AD0507, Engine No. CE4CK2422130, Chasis No. MD634CE42K2C22623 seized in connection with Chowk P.S. Case No.353/2020 registered for the offence u/s 30(a) of the Bihar Prohibition and Excise Act 2016.
- (ii) For further directing the concerned respondents not to initiate the confiscation proceeding against the vehicle in question and if initiated not to conclude the same and not to auction the vehicle in

question till the disposal of the
instant writ application.

(iii) For any other relief/reliefs to
which the petitioner may be found
entitled in the facts of the case.

It is submitted that 42 litres of county made liquor was recovered from the motorcycle of petitioner, which was stolen on 07.10.2020 by some unknown persons, for which he had lodged FIR on 09.10.2020 giving rise to Phulwarisharif P.S. Case No. 553/2020 for the offence punishable under Section 379 of IPC, and same was being used by the miscreants for transportation of illicit liquor which was seized by the police.

Petitioner claims to be owner of the seized vehicle and same was stolen on 07.10.2020 for which he had instituted a case as such, petitioner cannot be held to be responsible for transportation of illicit liquor.

In the facts and circumstances of the case, the 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 and on furnishing adequate sureties to the satisfaction of District Magistrate/Confiscating Authority, Patna.

With said observations and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	