

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 3137 of 2022

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Harishankar Chaudhary Son of Sita Ram Chaudhary Resident of Village Manjhariya, Sapahi, P.S. Turkauliya (Raghunathpur O.P.), District East Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principle Secretary, Excise Department, Government of Bihar, Patna.
2. The Principal Secretary Department of Excise, Bihar, Patna.
3. The District Magistrate, Motihari, East Champaran.
4. The Superintendent of Police, East Champaran, Motihari.
5. The S.I. Ramgarhwa, Motihari, East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar, 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 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 appropriate writ, direction the respondent to release of seized Motorcycle (Hero Splendor) bearing Registration No. BR 05AH5666 Chesis No. MBL HAR 074JHL 13623, Engine No. HA10 AGJHLB-1169 latter on after the theft the change in Registration No. BR225-0576 in connection with Ramgarhwa P.S. Case No. 196/2021 offence under Section 272, 273, 414 I.P.C. and 30(a) of Bihar Excise Act.

II. For issuance of any other relief/reliefs as your Lordships may deem fit and proper for ends of justice.”

It is submitted that 15 litres of county made liquor was recovered from the motorcycle of petitioner, which was stolen on 11.05.2021 by some unknown persons, for which he had lodged FIR on 15.05.2021 giving rise to Turkauliya Banjariya O.P. P.S. Case No. 383/2021 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 on 28.06.2021.

Petitioner claims to be owner of the seized vehicle and same was stolen on 11.05.2021 for which he had instituted a case as such, petitioner cannot be held to be responsible for transportation of illicit liquor. It is submitted that confiscation proceeding has been initiated.

In the facts and circumstances of the case, the District Magistrate/Confiscating officer, Motihari, East Champaran 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, Motihari, East Champaran.

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	