

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5689 of 2022

=====

Bipin Kumar Mandal, Son of Ramashish Mandal, Resident of Village -
Hajipur Diyara, P.S. - Mufassil, District - Sahebganj, Jharkhand... ..

Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Patna.
2. The Excise Commissioner, Patna, Bihar.
3. The Collector, Banka.
4. The Superintendent of Police, Excise Department, Banka.
5. The Senior Superintendent of Police, Banka.
6. The S.H.O., Police Station - Rajoun, District - Banka.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Manohar Prasad Singh, Advocate
For the Respondent/s : Mr.Kumar Manish (Sc5)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 10-05-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

1. That this writ application is for issuance of writ(s), order(s) and direction(s) by directing the respondent authority to release the vehicle in question bearing Registration No. JH-18G-7771, Engine No. HA11ENJGE15558, Chassis No. MBLHAR202JGE15561, which has been seized and kept within the premises of Police Station Rajoun in open space in connection with Nawada O.P. (Rajoun) P.S. Case No. 421/2021, instituted on 04.11.2021, for the offence under sections 30(A), 32(2) of the Bihar Prohibition and Excise Act, 2016, on the basis of self recorded statement of one Assistant Police Inspector, Nawada O.P., Satyendra Prasad singh, after quashing order dated 14/02/2022 passed by the learned Addl. District and Sessions Judge II, Banka, in Rajoun (Nawada

O.P.) P.S. Case No. 421/2021 / B.P. Case no. 287/2022 by which he has rejected the petition dated 19.01.2022 for release of the vehicle in question, in mechanical manner.

It is submitted that about 25 litres of illicit liquor was recovered from the motorcycle of petitioner which was stolen on 28.07.2021 for which he had instituted an FIR (Annexure-3) and his stolen vehicle was misused by miscreants for transporting illicit liquor which was seized by police on 04.11.2021 and he is not responsible of being indulged in carrying illicit liquor in his vehicle as same was stolen for which he had already instituted an FIR, for which petitioner cannot be held to be responsible.

In facts and circumstances of present case, District Magistrate/Confiscating Authority concerned 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 upon furnishing adequate sureties to the satisfaction of the concerned District Magistrate/Confiscating Officer.

The release shall be allowed within a period of 14 days from the date of submission of the sureties.

With aforesaid direction and observation, the writ petition is disposed of. However, it shall always be open for petitioner to get his vehicle released in terms of Rule 12(A) of Amended Excise Rules, 2021.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.05.2022
Transmission Date	NA