

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6178 of 2022

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Raj Kumar Sah, son of Prayag Sah, resident of Village- Bada Bariyarpur, P.S.-
Chhatauni, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principle Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Collector-Cum- District Magistrate, East Champaran.
4. The Superintendent of Police, East Champaran.
5. The Superintendent of Excise, East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abhishek Kumar, Advocate

For the Respondent/s : Mr.Vikash Kumar (SC11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-05-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

“(a) to issue an appropriate writ/order/direction,
in the nature of writ of Mandamus directing the



respondent Collector to release Glamolur motorcycle bearing registration no.BR06CG9741, which has been illegally seized by the S.I. in Chhatauni P.S. Case No. 150 of 2022 dated 13.03.2022 instituted for the offences under sections 30(a), 41(i) of the Bihar Prohibition and Excise Act, 2018.

(b) to grant any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case”

It is alleged that on the basis of confidential information to the effect that some persons are consuming liquor in a bamboo orchard, the police reached at the orchard. On seeing the police party, all the accused persons started to flee away from the spot, but on chase being made by the police, one of them was apprehended, who disclosed his name as Ganesh Kumar. On search being made, total 3.8 litres of illicit liquor kept in plastic bags has been recovered from the bamboo orchard. Apart from the aforesaid illicit liquor, two motorcycles bearing registration no. BRO6CG9741 and BR22M8946, which were found parked near the bamboo orchard, were also seized.

Petitioner claims to be the owner of seized vehicle bearing Registration No. BRO6CG9741 which was seized only on the basis of suspicion. Moreover, no recovery has been made from the said vehicle.



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)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	18.05.2022
Transmission Date	

