

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7225 of 2022

=====

Mahammad Mustkeem @ Md. Mustkeem Miyan S/o Alim Miyan R/v- Mira Tola, P.O. and P.S.- Manjhagadh, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, East Champaran.
3. The Superintendent of Police, East Champaran.
4. The S.H.O. of Police Station (Govindganj) Malahi, East Champaran.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Kundan Rathore@ Kundan Kumar
For the Respondent/s : Mr.Vivek Prasad (Gp7)

=====

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 : 08-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

- i. For issuance of appropriate Writ/ order/direction or writ in nature of mandamus commanding the respondent no. 02 to release the Motor Cycle bearing registration no. BR-28W-9242, chasis no- MBLHAW088LHA32132, Engine no- HA10AGLHAG2203

- ii. For the issuance of appropriate writ/order direction or writ in the nature of mandamus commanding the respondents to release the Motor cycle of the petitioner since the same is rotting in police station premises and is subject of decay, moreover the same Motor cycle is only one transportation article of petitioner.
- iii. For grant of any other relief or reliefs to which the petitioner be found entitled in the law be granted to them

It is submitted that 2.25 litres of illicit liquor was recovered from the motorcycle of petitioner which was stolen on 05.10.2021 for which he had instituted an FIR (Annexure-1) and his stolen vehicle was misused by miscreants for transporting illicit liquor which was seized by police on 08.03.2022 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	12.07.2022
Transmission Date	NA