

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8648 of 2022

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Kusum Kumari Wife of Pramanand Ram Resident of Village Narkatiya, P.O. Semariya, P.S. Nautan, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Custom and Excise Department, Government of Bihar at Patna.
2. The District Magistrate, Siwan.
3. The Superintendent of Police, Siwan, District- Siwan.
4. The District Transport Officer, Siwan, District- Siwan.
5. The Station Head Officer, Nautan, District- Siwan.

... .. Respondent/s

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Dwivedi, Adv
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 MR. JUSTICE S. KUMAR)

Date : 22-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“(a) For issuance of appropriate writ/order/direction including the writ in the nature of mandamus to commanding/directing the official respondents to release the Hero Passion Pro motorcycle of the petitioner bearing Chasis NO. MBLHAR189JHL25466 Registration No. BR29AH-5301 in her favour, which has been seized in connection with Nautan Police Station case No. 62 of 2002 dated 14.03.2022 and also during pendency of the confiscation case if any arising out of the Nautan Police Station case No. 62 of 2022.”

Allegation is recovery of 375 ml of illicit liquor from the seized vehicle of the petitioner.

Petitioner claims to be the owner of the said vehicle. It is further submitted that a meagre quantity of 375 ml of liquor has been recovered from the vehicle, as such, it cannot be inferred that the vehicle was used for transporting/carrying illicit liquor, nor it can be presumed that recovered illicit liquor was kept for sale/purchase/ trade purpose and it appears that same was kept for personal consumption.

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 on production of ownership and registration papers with respect to vehicle in question in his/her name and on furnishing adequate sureties to the satisfaction of District Magistrate / Confiscating Authority and undertaking.

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.

Petitioner is also at liberty to get his/her vehicle

released on payment of penalty in terms of Rule 12(A) inserted by amending Bihar Prohibition and Excise Rules, 2021.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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