

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10053 of 2022

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Jamin Sekh @ Md. Jamin Shaikh S/o Late Malu Sekh, Resident of Village -
Dhalu Jibanti Udaychandpur, Police Station - Kandi, District - Murshidabad
(West Bengal).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department Bihar Patna.
2. The Excise Commissioner, Bihar Prohibition and Excise Act 2016, Banka, Bihar.
3. The Excise Officer, Bihar Prohibition and Excise Act 2016 Banka, Bihar.
4. The District Collector, District Banka, Bihar.
5. The Superintendent of Police, District Banka, Bihar.
6. The Officer in Charge of Bounsi Police Station District - Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jay Ram Prasad, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP- 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 : 22-07-2022

Heard learned counsel for the parties.

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

- i. For issuance of an appropriate writ/writes direction/directions, order/orders directing the respondents to release the Four wheeler Vehicle Scorpio Bearing registration No-WB-58AT -8076, Chassis No-

MA1TA2S[X]2C35829, Engine Number-SJJ4C15178 which is seized in connection with Special Excise Reg. No-1110/2021 (arising out of Bounsi P. S. Case No-281/2021, Registered offence Under Sections 30 (a)/32 (2) of Bihar Prohibition & Excise Amendment Act 2018.

- ii. For grant of any other relief or reliefs for which petitioner is entitled in view of the facts and circumstances of the present case.

Allegation is recovery of 1.2 litres of illicit liquor from the seized Scorpio of the petitioner.

Petitioner claims to be the owner of the said vehicle.

It is further submitted that a meagre quantity of 1.2 litres 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)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	