

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11119 of 2022

Jokhu Ray Son of Bahadur Ray, Resident of Village-Jaisinghpur Tola, P.S.-Turkaulia,
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

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar, Advocate
For the Respondent/s : Mr.Vivek Prasad (G.P.7)

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 : 05-08-2022

Heard learned counsel for the parties.

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

1. That the petitioner prays for the following reliefs through the present Writ application:-
 - (a) To issue an appropriate writ/order/direction, in the nature of writ of Mandamus directing the respondent Collector to release TVS Apache motorcycle bearing registration no. BR05A1.7716, which has been illegally seized by the S. I. in Turkauliya P. S. Case No. 135 of 2022 dated 14.02.2022 instituted for the offences under sections 272, 273 of the Indian Penal Code, and 30(a) of the Bihar Prohibition and Excise Act, 2016.
 - (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.

Allegation is recovery of 300 ml. of illicit liquor from the seized motorcycle of the petitioner.

Petitioner claims to be the owner of the said vehicle.

It is further submitted that a meagre quantity of 300 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)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	