

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11871 of 2022

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Dharmesh Kumar Son of Langatu Paswan Resident of Village-Ward No. 10,
Baraharwa Fathe (Barharwa Fateh), P.S.-Chhatauni, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Govt. of Bihar, Patna.
2. The Excise Commissioner, Govt. of Bihar, Patna,
3. The District Magistrate Cum Collector, East Champaran, Motihari.
4. The Superintendent of Police, East Champaran, Motihari.
5. The Excise Superintendent, East Champaran, Motihari.
6. The Officer in Charge, Chhatauni, Police Station, District-East Champaran.

... .. 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.Madhurendra Kumar, 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 : 02-09-2022

Heard learned counsel for the parties.

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

- I. To release the vehicle i.e. HERO HF DELUXE Motor Cycle bearing Registration No. BR05Y8765, Chassis No. MBLHAR234HHM06159, Engine No. HA11ENHHM08935 seized in connection with Chhatauni P.S. Case No. 214 of 2022 registered U/S 414 of I.P.C. and Sections 30 (a), 41 (1) of the Bihar Prohibition and Excise Amendment Act 2018.
- II. For any other relief or reliefs for which the petitioner is entitled in the facts and circumstances of the case.

Allegation is recovery of 600 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 600 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