

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16929 of 2021

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Vinod Pandey, son of Ram Chandra Pandey, resident of Village-Patkhauliya,
Police Station-Patahi, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Bihar at Patna.
2. The District Magistrate, East Champaran at Motihari.
3. The Superintendent of Police, East Champaran at Motihari.
4. The Excise Superintendent, East Champaran at Motihari.
5. The Officer-in-Charge, Police Station-Patahi, District-East Champaran at Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shashi Bhushan Pandey, Advocate

For the Respondent/s : Mr.Vikash Kumar, SC 11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 07-04-2022

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

“For directions to the respondents authorities to release the vehicle (Motor Cycle) in the favour of the petitioner vide its registration No. BR 05AN 4511 vide chassis No. MBLJAW1788LGL08628, Engine No. JA07ABLGL09272 as the petitioner is registered owner of the said vehicle.”



Petitioner claims to be the owner of the seized vehicle.

Allegation is recovery of 750 ml. of illicit liquor from the seized vehicle of the petitioner.

It is further submitted that a meagre quantity of 750 ml. of liquor has been recovered from the vehicle, as such, it cannot be construed that the vehicle was used for transporting/carrying illicit liquor.

In the facts and circumstances of the case, the concerned District Magistrate/Confiscating Officer is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle seized by the police in excise case on production of ownership and registration papers with respect to vehicle in question in his name with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

(i) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.

(ii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when required.



(iii) Prior to release of the vehicle, a Panchanama would be prepared wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama.

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.

In view of amendment in the Excise Act, and same being applicable in pending cases, it shall be open for the petitioner to get his/her vehicle released after making 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)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	18.04.2022
Transmission Date	

