

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12362 of 2022

=====

Bedamiya Devi W/o Badhan Yadav Resident of Village- Haraiya, Post- Jaigir,
P.S.- Barachatti, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Senior Superintendent of Police, Gaya, Bihar.
4. The Officer Incharge, Police Station- Barachatti (Mohanpur), District- Gaya.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, 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 : 02-09-2022

Heard learned counsel for the parties.

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

1. That, this is an application for issuance of appropriate writ(s)/direction(s) to the Respondents for release of Vehicle of the Petitioner in her favour which is one Hero Splendor Motorcycle bearing Regd. No.-BR02BB-3379, Chasis No.-MBLH ~~AW127MHD15438~~ AW127MHD15438 and Engine No.-HA11EDMHD43562 which has been seized in Barachatti (Mohanpur) P.S. Case No.-364/2022 dated 03.05.2022 registered for the offences Under Sections

30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018 on 02.05.2022 and for which neither any confiscation proceeding has been initiated nor any notice in this connection has been issued or served to the petitioner till date from the office of the District Magistrate, Gaya.

And/or for any other appropriate relief(s) to the petitioner for which she may be found entitled to in the eye of law.

Allegation is recovery of 750 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 750 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)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	