

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12817 of 2022

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Sanidev Ram Son of ramkishor Ram Resident of Village-Nanhakar
Simaradah, Ward No. 12, P.S. Suppi, District-Sitamarhi-843315.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna.
2. The District Magistrate, Sitamarhi.
3. The Superintendent of Police, Sitamarhi.
4. The Deputy Superintendent of Police, Sitamarhi.
5. The Officer-in-Charge, Riga Police Station, District-Sitamarhi.
6. The Excise Commissioner, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Subodh Kumar, Advocate
For the Respondent/s : Mr.Kumar Manish (SC-5)

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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 : 02-09-2022

Heard learned counsel for the parties.

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

- (i) For issuance of writ in the nature of mandamus commanding and directing the respondent authorities to release the vehicle Splendor motorcycle bearing Registration No. BR30AC-3044, Chasis No. MBLHAW12XMHC01899, Engine No. HA11EDMHC31637 which has been seized in connection with Riga P.S. Case No. 188/2022 registered under Sections 30(a)/37(i)(ii) of the Bihar Prohibition & Excise Act, 2018 in favour of the petitioner who is owner of the vehicle because till date confiscation proceeding has not been initiated.
- (ii) And for any other relief/reliefs for which the petitioner is found to be entitled in the eye of law.

Allegation is recovery of 1.20 litres 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 1.20 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	