

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18329 of 2021

=====

Kajal Devi Wife of Rajnish Kumar, Resident of Mohalla - Sandalpur, P.S. - Kasim Bazar, District - Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Patna.
2. The District Magistrate, Munger.
3. The Superintendent of Police, Munger.
4. The Station House Officer (S.H.O.), Kasim Bazar Police Station, District - Munger.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Jha, Adv
For the Respondent/s : Mr.Vikash Kumar (SC11)

=====

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

Date : 01-04-2022

Heard learned counsel for the parties.

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

“(i) For issuance of writ or writs, order or orders and direction or directions in the nature of mandamus for commanding and directing the Respondents to release the seized Activa Scooty bearing Registration No. BR 08J 7312 in favour of petitioner which has been seized in connection with Kasim Bazar PS. Case No. 184/2021 instituted for the offence u/s 30(a) and 32 of the Bihar Prohibition and Excise Act, 2018.”

Allegation is recovery of 2.250 litre of illicit liquor from the dickey of seized Scooty. Petitioner claims to be the owner of the seized Scooty.

In the facts and circumstances of the case, **the District Magistrate/Confiscating Officer, Munger**, 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)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA