

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.19966 of 2021**

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Bhikhari Yadav, S/o Late Kapil Dev Yadav, Resident of Village-Amwa Man Bajar, P.S.-Majhauria, Dist.-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Excise and Prohibition Department, Govt. of Bihar, Patna.
3. The Collector-cum-District Magistrate, West Champaran at Bettiah.
4. The Superintendent of Police, West Champaran at Bettiah.
5. The Officer-in-Charge, Majhauria Police Station, Majhauria, District-West Champaran.
6. The Investigating Officer, Majhauria P.S. Case No. 341/2021, Majhauria Police Station, Majhauria, District-West Champaran.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Sanjeev Kumar, Advocate  
For the Respondent/s : Mr.Lalit Kishore ( A.G. )

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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 : 01-04-2022**

Heard learned counsel for the parties.

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

“A. For issuance of a writ in the nature of mandamus or any other appropriate writ, order/s, direction commanding the respondents to release the Hero Splendor Plus Motorcycle of the petitioner bearing Registration No. BR22N-9275, which has been seized in connection with Majhauria P.S. Case No. 341/2021 registered U/s 30(a) of the Bihar Prohibition and Excise

Act.

B. For any other relief/s to which the petitioner is found entitled to.”

Petitioner claims to be the owner of the seized motorcycle. It is submitted that only 1 litre country made liquor was recovered from the vehicle and prior to the alleged date and occurrence, petitioner had given the motorcycle to his neighbour for the purpose of bringing medicines, who had kept the liquor in the dickey of the motorcycle, as such, petitioner was not aware that said illicit liquor was kept in his motorcycle.

In the facts and circumstances of the case, concerned District Magistrate/Confiscating Authority 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 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 observations, this writ petition is disposed

of.

(Sanjay Karol, CJ)

( S. Kumar, J)

veena/rajiv-

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