

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20411 of 2021

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Ram Pravesh Gupta S/o Roopdev Sah R/o Village Charki, P.S. Adhoura,
District Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Bihar Patna
2. The Director General of Police, Bihar Patna.
3. The District Magistrate cum Collector, Kaimur at Bhabua.
4. The Senior Superintendent of Police, Kaimur at Bhabua.
5. Station Head Officer of Police Station Chand, Kaimur at Bhabua.
6. Assistant Sub- Inspector, Bhagwanpur, Kaimur at Bhabua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Tribhuwan Narayan, Advocate
For the Respondent/s : Mr.Vikash Kumar (S.C.11)

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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):-

“That the present writ application is being filed with a prayer to issuance of appropriate writ in nature of mandamus or any appropriate writ and order and direction to direct the respondent authorities to release the Hero Passion Pro Motorcycle bearing registration No. BR 45L-02277, Engine No. HA10ACK4G06791, Chassis No. MBLHAW012K4G06605 belonging to the petitioner, which has been seized in connection with Bhagwanpur P.S. Case No. 172 of 2020, instituted

under Section 30(a) of the Bihar Prohibition and Excise Act.”

Petitioner claims to be the owner of the seized motorcycle. Allegation is recovery of 375 ml. foreign liquor from the bag which was kept on motorcycle carrying two persons. It is submitted that nothing has been recovered from the possession of petitioner or from his motorcycle.

It is further submitted that a meagre quantity of 375 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, 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-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	