

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5051 of 2023

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Yuglesh Prasad Singh S/o Vijay Kumar Singh R/o Village- Rupsagar P.S.-
Nawanagar District- Buxar (Bihar).

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Excise Department,
Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Buxar
3. The Superintendent of Police, Buxar
4. The District Supply Officer, Buxar
5. The S.H.O. cum Officer in Charge Police Station- Nawanagar, Buxar.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Dimpal Kumari, Adv.
For the State : Mr. Vivek Prasad (GP 7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 24-04-2023

Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is concerned with the release of his
motorcycle bearing Registration No. BR 24AF1541, Engine No.
GE5HM2010157, Chassis No. MD637DE58M2H08636, which
was seized in connection with Nawanagar PS Case No. 276 of
2022, dated 18.08.2022, for alleged offences under Sections
30(a), 30(c), 30(d), 33, 34, 36, 41(1)(2) of the Bihar Prohibition
and Excise Act.

As per FIR 216 litres of spirit and 75 litres of English



wine has been seized on a raid conducted at the place of occurrence where the accused persons were arrested. Four motorcycles, including the petitioner's motorcycle has been recovered, on the statement of the accused persons.

From the allegation in the FIR, it is apparent that there is no recovery whatsoever of any illicit liquor or spirit from the petitioner's motorcycle. In view thereof, the seizure cannot be countenanced.

Section 56 of the Act provides that when an offence has been committed under the Act, any animal, vehicle, vessel or other conveyance used for carrying any "intoxicant or liquor" shall be liable to be confiscated, but in the manner prescribed under the provisions of the Act. There being no such allegation even in the FIR, regarding recovery of any "intoxicant or liquor" from the petitioner's motorcycle, this Court would find that there is no basis for its seizure much less its confiscation

This Court, therefore, directs release of the motorcycle, if not already auction sold or disposed of otherwise in terms of the Bihar Prohibition and Excise Act/Rules.

The seizing officer should, therefore, immediately forward the vehicle to the Confiscating Authority, namely, District Magistrate, Buxar (Respondent No.2) from where the



same should be released in favour of the petitioner subject to verification of identity vis-a- vis ownership of the vehicle in- question.

The writ application is allowed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	
CAV DATE	
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