

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17541 of 2022

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Sunil Tiwari Son of Late Kashinath Tiwari, Resident of Village Darwan,
Police Station Isuapur, District Saran at Chapra, At present residing at Village
- Pahadpur, Police Station Baikunthpur, District – Gopalganj.

. ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise, Government of Bihar, Patna.
2. The Principal Secretary Excise, Government of Bihar, Patna.
3. The District Magistrate, Siwan.
4. The Superintendent of Police, Siwan.
5. The Excise Superintendent, District Siwan.
6. The Sub Divisional Officer, Maharajganj, District - Siwan.
7. The Officer In charge, Police Station Goriya Kothi, District - Siwan.
8. The Investigating Officer, Police Station Goriya Kothi, District - Siwan.
9. The Superintendent of Police, Gopalganj.
10. The Officer In charge, Police Station Baikunthpur, District - Gopalganj.
11. The Investigating Officer, Police Station Baikunthpur, District - Gopalganj.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Krishna Kumar Yadav, Advocate
For the Respondent/s : Mr.Vivek Prasad GP- 7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-02-2023

Heard learned counsel for the parties.

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



1. That, this Writ Petition is being filed for the issuance of writ/ Writs, direction/directions, Order/Orders, Command/Commands and filed for the issuance of writ in the nature of mandamus directing the Respondents Authorities, Siwan, to release forth with the Glamour motorcycle bearing Registration no BR04T8041 having Chassis no, MBLJA06AMGGG33643 and Engine no. JA06EJGGG41154, in favour of vehicle owner, the Petitioner, which has been seized while that was on Road in connection with Goriya Kothi P.S. Case no 205 of 2021 dated 13.11.2021, registered under section 30(a) of the Bihar Prohibition and Excise Act, 2016 (here in referred as Excise Act, 2016), which has been seized with 5 Liters of Mahua Liquor by Informant ASI, Goriya Kothi Police Station and handed over to the Respondent no. 7, Petitioner further prays for issuance of writ in the nature of Certiorari to quash the order passed by Respondent no. 6 Excise Act Case no. 03/2022-23 (Confiscation), order of confiscation dated 8/7/2022 and order of auction if any of the aforesaid Glamour motorcycle bearing Registration No. BR04T8041 of Petitioner seized in connection with Goriya Kothi P.S. Case no 205/2021 dated 13.11.2021, registered U/S 30(a) of the Bihar Prohibition and Excise Act, 2016 in light of Baikunthpur P.S. case no.146/2021 lodged under section 379 of IPC lodged by the petitioner for theft of his same Glamour motorcycle bearing Registration No. BR04T8041, petitioner further prays for restraining the Respondents for auction as well as confiscation of the petitioner's above mentioned Glamour motorcycle of petitioner if it will have been done during pendency of this Writ Petition and Petitioner further prays for grant of any other relief/reliefs for which the petitioner found entitled in the facts and circumstances of this case be also given.

It is submitted that 100 ml of illicit liquor was recovered from the motorcycle of petitioner which was stolen for which he had instituted an FIR giving rise to Baikunthpur



P.S Case No. 146 of 2021 dated 17.05.2021 registered u/s. 379 of the I.P.C. and his stolen vehicle was misused by miscreants for transporting illicit liquor which was seized by police on 13.11.2021 giving rise to Goriya Kothi P.S. Case No. 205/2021 registered u/s. 30(a) of Bihar Prohibition and Excise Amendment Act, 2018, and he is not responsible of being indulged in carrying illicit liquor in his vehicle as same was stolen for which he had already instituted an FIR, for which petitioner cannot be held to be responsible.

In facts and circumstances of present case, District Magistrate/Confiscating Authority 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 upon furnishing adequate sureties to the satisfaction of the concerned District Magistrate/Confiscating Officer.

The release shall be allowed within a period of 14 days from the date of submission of the sureties.

With aforesaid direction and observation, the writ petition is disposed of.

However, it shall always be open for petitioner to get his vehicle released in terms of Rule 12(A) of Amended Excise



Rules, 2021.

Interlocutory Application(s), if any, stands disposed
of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Rajiv/-Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

