

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18064 of 2022

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Kailash Kumar Jha Son of Nawal Kishor Jha @ N.K. Jha, Resident of
Village- Balain, P.S.- Arer, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Director General of Police, Police Department, Government of Bihar,
Patna.
3. The Inspector General of Police, Darbhanga Division, Darbhanga.
4. The District Magistrate, Madhubani, District- Madhubani.
5. The Superintendent of Police, Madhubani, District- Madhubani.
6. The Officer-In- Charge of Kaluahi Police Station, P.S.- Kaluahi, District-
Madhubani.
7. The Investigation Officer of Kaluahi, P.S. Case No. 188 of 2022, P.S.-
Kaluahi, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Subhash Kumar Jha, Advocate
For the Respondent/s : Mr.Vikash Kumar, SC-11

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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 the present application is being filed to
issue a writ in the nature of Mandamus command
the respondents authorities to release the
Motorcycle bearing Bajaj Avenger 220 Cruise
(A.B.S.) Motorcycle of the petitioner bearing



Registration No. DL12SP4390, Chasis No. - MD2A22EY2KCE21063 and Engine No. PDYCKE491 66 in favour of the petitioner in connection with Kaluahi P.S. Case No. 188 of 2022 dated 16.10.2022 corresponding to G.R. No. 1981 of 2022 registered for offence under section 272, 273/34 of the Indian Penal Code and section 30(a)/37 Bihar Prohibition and Excise Amendment Act 2022 which was forcibly seized by the police authorities without any fault in his part.”

Allegation is recovery of 1.2 liters of illicit liquor from the seized motorcycle of the petitioner.

Petitioner claims to be the owner of the said vehicle.

It is further submitted that a meagre quantity of 1.2 liters of liquor has been recovered from the vehicle, as such, it cannot be inferred that the vehicle was used for transporting/carrying illicit liquor, nor it can be presumed that recovered illicit liquor was kept for sale/purchase/ trade purpose and it appears that same was kept for personal consumption.

In the facts and circumstances of the case, the District Magistrate/Confiscating Officer 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 in his name and on furnishing adequate sureties to the



satisfaction of District Magistrate / Confiscating Authority and undertaking.

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.

Petitioner is also at liberty to get his/her vehicle released on 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)

(Partha Sarthy, J)

Rajiv/-Sujit

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

