

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10577 of 2024

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Mithilesh Kumar Son of Late Suresh Rai Resident of Village - Hasanpur
Bhadwash, P.S. - Mahua, District - Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Excise and Registration, Government of Bihar, Patna.
2. The confiscating authority cum District Magistrate, Vaishali at Hajipur.
3. The Superintendent of Police, Vaishali at Hajipur.
4. The Station House Officer (SHO) Town Police Station, Vaishali.
5. The Station House Officer (SHO) Industrial Police Station, Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Santosh Kumar, Advocate

For the Respondent/s : Mr.Mahtab Alam, Advocate, AC to SC-20

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 25-07-2024

In the instant petition, petitioner has prayed for
the following relief:-

*“That the present writ petition is
being filed for issuance of appropriate
writ / writs, order / orders, directing the
respondents authorities to release the
vehicle Hero Splendor Motor cycle
bearing Registration no. BR31AN1982,
Chasis No. MBLHAW123LHH36037,
Engine No. HA11EYLHH38880 Seized
in connection with Industrial P.S. Case
No. 109/2023 dated 02.08.2023
registered u/s 272, 273, 414 of IPC and
30(a) of Bihar Prohibition & Excise*



Amendment Act 2018.”

2. On 22.07.2024, we have passed the following
order:-

*“The Superintendent of Police, Vaishali at Hajipur is hereby directed to verify the genuineness of filing of the FIR on 25.07.2023 for the offence under Section 379 to the extent that whether petitioner's vehicle was stolen on 21.07.2023 or not. Thereafter, such stolen vehicle was alleged to have been misused by some alleged miscreants on 02.08.2023 to the extent of filing F.I.R for the offences under the Excise Act. On this issue an affidavit shall be filed so as to examine whether vehicle could be released subject to outcome of further any confiscation proceedings.
2. Relist this matter on 25.07.2024.
3. Copy of this order shall be given to the State counsel.”*

3. Today, the learned counsel for the respondents/State have filed counter affidavit on behalf of the Respondent No. 1 alongwith documents.

4. From the perusal of the counter affidavit read with the document, it is evident that confiscation proceedings has been dropped against the petitioner on 24.07.2024. In the result, petitioner is entitled to release of the subject matter of vehicle in his favour pursuant to the registration of F.I.R. dated



02.08.2023. Almost for about a year the vehicle is with the official respondents custody. It is a trivial issue which could have been adjudicated by the official respondents within a week or so. On the other hand, they were awaiting for some judicial order and such point of view of the respondent's is deprecated to the extent that petitioner was compelled to file the present writ petition for release of the subject matter of vehicle which was seized from the certain alleged miscreants.

5. Having regard to these facts and circumstances of the case, the concerned respondent is hereby directed to release the subject matter of vehicle after due identification of the owner within a period of one week from today.

6. The respondents are liable to pay litigation cost and it is quantified at Rs. 25,000/-. Cost shall be paid to the petitioner within a period of eight weeks from the date of receipt of this order.

7. We have come across in number of cases, the official respondents are abusing Bihar Prohibition and Excise Act, 2016 and Rules, 2021 including amended provisions in the year 2022 and 2023". Years together vehicle and premises are seized resultantly causing undue hardship to innocent persons.



This issue may be taken note by the highest authorities in the State of Bihar so as to reduce the litigations and also in avoiding harassment to the general public.

8. With the above observation, the present C.W.J.C. No. 10577 of 2024 stands allowed.

9. Copy of this order be forwarded to the chief secretary to State of Bihar for taking necessary step in identical matters.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

alok/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.07.2024.
Transmission Date	N/A

