

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89247 of 2024

Arising Out of PS. Case No.-143 Year-2024 Thana- KALUAHI District- Madhubani

Suresh Kumar Singh, S/o Shiv Narayan Singh, R/o Road No 7C, House No 11, Indrapuri, Near Shiv Mandir, P.S.- Patliputra, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha, Advocate

For the Opposite Party/s : Mr. Navin Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 17-03-2025

Heard Mr. Bachan Jee Ojha, learned counsel appearing for the petitioner and Mr. Navin Kumar Pandey, learned APP appearing on behalf of the State.

2. The present application has been filed by the petitioner for quashing of the order dated 23.11.2024 passed in G.R. No.1078 of 2024/Kaluahi P.S. Case No.143 of 2024 by learned A.D.J.-II-cum-Special Judge, Excise Act, Madhubani, whereby the learned Special Judge has rejected the petition filed by the petitioner for release of his Scorpio vehicle bearing Registration No.BR-1PG-1082 Chasis No.MAITA 25JXF2B 17788 and Engine No. SJFUB 19578, which is standing in Kanhauli Police Station, Madhubani since 30.07.2024.

3. The case of prosecution is that the Scorpio bearing



Registration No. BR-1PG-1082 of the petitioner was stolen away in the intervening night of 20.02.2024 and 21.02.2024, while it was standing in front of his house situated in mohalla-Indrapuri, Road No.7C, House No.11, Shiv Shanti Villa, P.S.-Patliputra, District-Patna by some unknown miscreants. The petitioner furnished a written information to the concerned police station to that effect on 21.02.2024 and on the basis of said written information, the police lodged first information report *qua* occurrence as Patliputra P.S. Case No.78 of 2024 for the offence punishable under Section 379 of the IPC.

4. It is submitted by learned counsel appearing for the petitioner that the vehicle in issue was stolen by some unknown person on 20.02.2024 for which a case was lodged with Patliputra Police Station, being Patliputra P.S. Case No.78 of 2024. Subsequently, after lapse of five months, the aforesaid stolen vehicle was seized by the Madhubani police while carrying consignment of illicit liquor and was became subject matter of Kaluahi P.S. Case No.143 of 2024.

5. It is further submitted that in view of aforesaid, this vehicle cannot be confiscated, as the petitioner not appears accused or connected in any manner with recovered illicit liquor.



In support of his submission, learned counsel has relied upon the judgment of Division Bench of this Court passed in the matter of **Saddam Hussain vs. the State of Bihar and Ors. [Cr.W.J.C. No.14606 of 2024]**.

6. It is further submitted that during the course of investigation, one another Scorpio vehicle of Ward Parshad of Budha Colony was also stolen away and for that Budha Colony P.S. Case No.108 of 2024 was lodged for the offence under Section 379 of the IPC in which the police had recovered the said Scorpio vehicle and arrested several accused persons, who clearly confessed that they had stolen the vehicle of the petitioner and sold to one Aman. In spite of that, the police has failed to recover the aforesaid scorpio of the petitioner. It is further submitted that the Officer-in-charge of Kaluahi Police Station informed the petitioner on telephone that your scorpio bearing Registration No. BR01PG-1082, Chasis No. MA1TA25 JXF2B17788 and Engine No.SJFUB 19578 (fake Registration No. JH14G 6580) has been seized by police along with country made liquor but the driver of the vehicle fled away. On inquiry from Transport office, the name of original owner through chasis no. and engine no. was disclosed and FIR was lodged being



Kaluahi P.S. Case No.143 of 2024 under Sections 274 274 of the Bhartiya Nyay Sanhita (in short B.N.S.) and Section 30(a) of the Bihar Prohibition and Excise Act against the owner/driver of the vehicle.

7. It is further submitted that name of petitioner has been transpired in this case being registered owner of the vehicle in issue.

8. Learned APP has opposed the prayer for quashing of the application but, he fairly conceded the submissions as advanced by learned counsel appearing for the petitioner.

9. In this context, it would be apposite to reproduce para-21 of the legal report of Hon'ble Supreme Court as available through **Sunderbhai Ambalal Desai vs. State of Gujarat** as reported in **(2002) 10 SCC 283** which is as under:-

“**21.** However, these powers are to be exercised by the Magistrate concerned. We hope and trust that the Magistrate concerned would take immediate action for seeing that powers under Section 451 CrPC are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the High Court concerned in seeing that the rules framed by the High Court with regard to such articles are implemented properly.”



10. From the factual background, it can be gathered safely that the implication of petitioner appears only being the registered owner of the scorpio vehicle, which was stolen long back for which, the FIR was registered immediately by him as Patliputra P.S. Case No.78 of 2024. Prudently, it can be gathered that petitioner was not connected with present offence. It appears out of joint submission that the vehicle in issue was not confiscated yet, and keeping it with police shall not serve any judicial purpose.

11. Considering the aforesaid, the order dated 23.11.2024 as passed in G.R. No.1078 of 2024/Kaluahi P.S. Case No.143 of 2024 by learned A.D.J.-II-cum-Special Judge, Excise Act, Madhubani is hereby quashed and set aside.

12. The present application stands allowed with directions to the learned trial court to release the Scorpio vehicle in question against such sureties and conditions, satisfying the learned trial court/court concerned to petitioner/rightful owner. Further, the petitioner shall not sell or part with the ownership of the vehicle till conclusion of the trial and shall furnish an undertaking to the trial court that he shall surrender the vehicle within one week of being so



directed and/or pay the value of the vehicle (determined according to Income Tax law on the date of its release), if so ultimately directed by the Court.

13. Let a copy of the order be communicated to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21-03-2025
Transmission Date	21-03-2025

