

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3519 of 2026

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Rahul @ Rahul Pandey Son of Late Lalan Pandey, Resident of Village-
Madhuchhapra, P.O- Belwatiya, Police Station- Piprakothi, District- East
Champaran.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Excise,
Government of Bihar at Patna.
2. The District Magistrate, East Champaran, Bihar.
3. The Superintendent of Police, East Champaran, Bihar.
4. The S.H.O. Motihari Town Police Station, Motihari, East Champaran.
5. The Investigating Officer of Motihari Town P.S. Case No.- 330 of 2025,
Motihari Town Police Station, East Champaran.
6. The S.H.O. Excise Sadar Police Station, Motihari, East Champaran.
7. The Investigating Officer of Excise Sadar P.S. Case No.-1010 of 2025,
Excise P.S. Motihari, East Champaran.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Pawan Kumar, Advocate
For the State : Mr. Raj Kishore Ray, G.P.-18

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE KUMAR MANISH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 18-06-2026 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Petitioner in the present case is seeking the
following reliefs:-

“i) For issuance of writ of mandamus or for
appropriate direction upon the respondent
directing them to release the vehicle (Hero
glamour motorcycle) of the above named
Petitioner bearing Registration No. BR06AH-
7945, Chasis No. - MBLJA06ACD9J07746,



Engine No.- JA06EJD9J07885 which was seized in Excise Sadar P.S. Case No.- 1010 of 2025 on changed number plate bearing BR-05AB-4516 on behalf of the present petitioner who is the registered owner of the seized vehicle which was stolen on the basis of Motihari Town P.S. Case No.- 330 of 2025.

(ii) For stay on confiscation proceeding of the aforesaid vehicle bearing Registration No.- BR-06AH-7945 and released the abovementioned vehicle on furnishing bond and sureties for the satisfaction of District Magistrate, East Champaran which is seized in Excise Sadar Motihari P.S. Case No. 1010 of 2025 by changing the number plate bearing BR05AB-4516 of the abovementioned vehicle by the accused persons.

(iii) For issuance of any other appropriate writ order and direction which your lordships may deemed fit and proper in the fact and circumstances of the cases.”

3. It is the case of the petitioner that he is the owner of the motorcycle and the said motorcycle was stolen away on 20.04.2025. In this regard, the petitioner lodged Motihari Town P.S. Case No. 330/2025 for the offence under Section 303 (2) of the Bharatiya Nyaya Sanhita (in short ‘BNS’). Copy of the FIR lodged by the petitioner has been brought on record as Annexure ‘P/2’. It is submitted that about two months after the



theft of the said vehicle, the same was intercepted by the ASI of Motihari Excise Police. In course of raid, the motorcycle was stopped on suspicion on Dhaka- Chainpur road. The person riding the motorcycle tried to flee after which he was blocked and stopped. He disclosed his name as Md. Adil. Thereafter, the motorcycle and the person were checked during which total 126 litres of Nepali liquor was recovered from the three sacks tied on the bike bearing registration no. BR05AB-4516. This gave rise to Excise P.S. Case No. 1010 of 2025 dated 24.06.2025 for the offences under Sections 30(a) & 41(1) of the Bihar Prohibition and Excise Act, 2016.

4. Learned counsel for the petitioner submits that in course of investigation of Excise P.S. Case No. 1010 of 2025, it was found that the number plate of the motorcycle was having a fake number plate bearing BR05AB-4516, in fact, it was the motorcycle of the petitioner which was being used for the transportation of the illicit liquor. It is submitted that in the theft case, police has found the occurrence true and a final form has been submitted. It is submitted that earlier counter affidavit was called for and a copy of the counter affidavit on behalf of respondent no. 4 has been served upon him.

5. Learned counsel for the State submits that, in fact,



on behalf of respondent no. 4, a counter affidavit was prepared, sworn and served upon learned counsel for the petitioner but thereafter, due to certain repairing works going on in the office of the learned advocate, the file has been misplaced and as a result whereof, the counter affidavit could not be uploaded online and the hard copy of the counter affidavit is not available with him.

6. Having regard to the entire facts and circumstances and the submissions noted hereinabove, we are of the considered opinion that instead of keeping the writ application pending, it would be appropriate to dispose of the writ application keeping in view the statements present in the counter affidavit, copy of which has been made available to this Court by learned counsel for the petitioner and the contents whereof have not been contested by learned counsel for the State in course of hearing.

7. It is evident that it is a case of use of stolen vehicle in carrying illicit liquor. No role of the petitioner has been found either in the theft of the vehicle or in the transportation of the liquor through the said vehicle. In such circumstance, the petitioner cannot be allowed to suffer. The confiscation with regard to the vehicle in question cannot proceed.



8. In the circumstances, we grant liberty to the petitioner to file an application seeking release of the vehicle before the competent authority i.e. the Collector or an Officer authorized by him. The Competent Authority shall consider the application and pass an appropriate order for release of the vehicle in favour of the petitioner. Such order must be passed within a period of two weeks from the date of production of a copy of this order.

9. It is made clear that in the facts of the present case, no role of the petitioner has been found in the transportation of the illicit liquor by the vehicle in question. The Competent Authority shall not impose any penalty as a condition to release the vehicle. This Court has taken this view in number of cases one of which is **Bimlesh Kumar versus The State of Bihar & Ors.** reported in **2026 (1) BLJ 477**.

10. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Kumar Manish, J)

Abhishek/-
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