

(2020) 11 PAT CK 0114

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 20619 Of 2019

Pitambar Sah

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision: Nov. 5, 2020

Acts Referred:

- Bihar Prohibition And Excise Act, 2016 - Section 30(a)

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J

Bench: Division Bench

Advocate: Umesh Tiwari, Vikash Kumar

Final Decision: Disposed Of

Judgement

Heard the parties.

Petitioner has prayed for following relief:-

“This civil writ application is being filed with prayer for order/orders, direction/directions, commanding the respondents to release the motorcycle of the petitioner bearing Engine No.Ha10AGJHD6381, Chassis No.MBLHAR073JHD 50908 (Splendor 1135-self-Drum-Cast), which has been seized

by the A.S.I. Police, Jitna P.S. East Champaran and same is lying in the campus of Jitna Police Station in connection with Ghorasahan P.S. Case

No.97 of 2019, registered under Section 30(a) of Bihar Prohibition and Excise Act, 2016.”

It is submitted on behalf of counsel for the State that confiscation proceeding has been initiated by the Confiscating authority being confiscation case

no.278/19 for confiscation of seized vehicle.

The writ petition is disposed of with a direction to the confiscation authority to conclude the confiscation proceeding within 90 days from the date of filing of show cause, if show cause is not filed or within 90 days from the date of receipt/production of a copy of order passed by this Court, if the show cause has already been filed failing which Confiscating authority, East Champaran at Motihari shall provisionally release the vehicle of petitioner after due identification of ownership of the vehicle and on production of ownership and registration document with respect to vehicle in question in his name with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

(I) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.

(ii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority/trial court as and when required.

(iii) Prior to release of the vehicle, a Panchanama would be prepared wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama.

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.

With said observations, this writ petition is disposed of.