

(2021) 06 PAT CK 0018

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 6836 Of 2021

Sunil Kumar Prasad @ Sunil Bin

APPELLANT

Vs

State Of Bihar & Ors

RESPONDENT

Date of Decision: June 7, 2021

Acts Referred:

- Bihar Prohibition and Excise Act, 2016 - Section 37C

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

Bench: Division Bench

Advocate: Ashok Kumar, Kumar Manish

Final Decision: Disposed Of

Judgement

Heard the parties.

Petitioner has prayed for following relief(s):-

• (I) For a direction upon the respondents, particularly Respondent No. 3 to 5 release the Honda Shine Motor Cycle bearing Registration No.

BR29AF-8010, Chassis No. ME4JC737EJT036960, Engine No. JC73ET2067801 in favour of the petitioner which was seized in

connection with Raghunathpur P.S. Case No. 215 of 2019 on 27.11.2019 registered U/s 37(C) of Bihar Prohibition and Excise Act, 2016. (II)

For any other relief or reliefs as the petitioner may found entitled by this Hon'ble Court be given.

It is submitted that no illicit liquor was recovered from the vehicle, as such seized vehicle is not liable for confiscation. Allegation against driver of the

seized vehicle is to be found in a drunken condition. It has been further submitted that confiscation proceeding has already been initiated. In facts and

circumstances of present case, District Magistrate/Confiscating Authority, Siwan 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 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 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.