

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1366 of 2018

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Mamita Devi wife of Sri Arjun Pahariya @ Jhunna Pahariya, Resident of
Pahariya Tola Makaspur, P.S. Kahalgaon, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar, through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The District Magistrate-cum- Collector Bhagalpur.
4. The Senior Superintendent of Police, Bhagalpur.
5. The S.H.O. Kahalgaon Police Station, District Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Dr. Manoj Kumar

For the Respondent/s : Mr. Vikash Kumar (Sc11)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 30-05-2018 The petitioner has filed the present writ petition for release of the motorcycle bearing registration No.BR-10W-9825 Model T.V.S. Victor which has been seized in connection with Kahalgaon P.S. Case No. 638 of 2017, registered for the offences under Sections 37(C)/30(a)/ 56(d) (e) of Bihar Prohibition of Excise Act, 2016 and Section 188/290 of the Indian Penal Code. The petitioner is also aggrieved by the order dated 4.4.2018 passed by the learned Special Judge, Bhagalpur in Kahalgaon P.S. Case No. 638 of 2017, G.R. 7059 of 2017, T.R. 1931 of 2018 whereby and whereunder the prayer of the petitioner for releasing the motorcycle has been rejected.

The learned counsel for the petitioner submits that a



bare perusal of the FIR would show that no illicit liquor has been seized. It is further submitted that many motorcycles were seized on the said date and time of occurrence and illicit liquor/ mahua wine was recovered, but as far as the petitioner is concerned, though the motorcycle was seized in the said case, but nothing was recovered from the said motorcycle.

Having regard to the facts and circumstances of the case, this Court directs the petitioner to approach the District Magistrate, Bhagalpur, along with a copy of the present order as well as the documents in proof of his ownership of the said motorcycle, whereafter the District Magistrate, Bhagalpur shall verify the same and after satisfying himself regarding genuineness of the petitioner's ownership of the said vehicle, he shall release the motorcycle of the petitioner upon the petitioner furnishing one local surety to the satisfaction of the D.M., Bhagalpur, subject to the condition that the petitioner shall produce the motorcycle as and when directed by the D.M. and shall give a personal undertaking in the form of an affidavit to the said effect as also to the effect that till the confiscation proceedings are not finally concluded, the vehicle in question shall not be alienated or dealt with in a manner which would be prejudicial to the State Government and vehicle shall be kept in a proper condition and



produced before the D.M. on every occasion as and when directed.

The writ petition is disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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