

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14991 of 2018

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Baidyanath Prasad Son of late Mahabir Mahto Resident of Village Sare, P.S. Sae, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The District Magistrate, Nalanda at Biharsharif.
3. The Officer-in-Charge of Bind, P.S. Nalanda.
4. The Investigating Officer of Bind, P.S. Case No. 130/2017.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Prasad, Advocate
For the Respondent/s : Mr. Kumar Manish – SC 5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 01-08-2018 Petitioner has filed this writ petition challenging the confiscation proceedings initiated against him or proposed to be initiated against him, so also seizure of his vehicle Splendor Plus Motorcycle bearing Registration No. BR-21N-1790, seized in connection with Bind P.S. Case No. 130 of 2017.

It is the case of the petitioner that the only allegation against the petitioner and the case registered under the Bihar Excise and Prohibition Act, 2016 is with regard to the petitioner driving the vehicle in a drunken condition. It is emphasized that under Section 56 of the Bihar Excise and Prohibition Act, 2016, when the vehicle in question is not being used for transportation or carrying of any liquor, seizure



or confiscation of the vehicle is not permissible. Considering similar arguments, we had held in C.W.J.C.No.13162 of 2018 yesterday and earlier also in the case of Diwakar Kumar Singh Vs. The State of Bihar & Ors. (C.W.J.C. No.5049 of 2018) that under Section 56 of the Act when the only allegation against a person is that he is found to be driving a vehicle or plying it on a public place in a drunken condition, the provisions of Section 56 is not applicable and confiscation and seizure of such a vehicle is not permissible under the Bihar Excise and Prohibition Act, 2016.

Accordingly, in view of the above, we allow this application, quash the confiscation proceedings, permit the respondents to proceed to prosecute the applicant, namely Baidyanath Prasad, for being or driving in a drunken condition.

Accordingly, confiscation of the vehicle shall stand quashed and vehicle released to the petitioner, if not required in any other case.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/Uma/-

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