

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13162 of 2018

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Rajesh Kumar Pandit @ Rajesh Pandit, Son of Chamtu Pandit, resident of
Village- Azad Nagar, Ward No. 18, P.S. Jamui, District- Jamui.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary of Excise Govt. of Bihar,
at Patna.
2. The District Magistrate, Jamui.
3. The Superintendent of Excise, District Jamui.
4. The Superintendent of Police, Jamui.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satya Prakash Parasar, Advocate
For the Respondent/s : Mr. Kumar Manish- SC5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 31-07-2018 This writ petition has been filed for release of a
vehicle (Motorcycle) bearing Registration No. BR 53B-7198,
which has been seized in connection with Excise Case No. 79 C-
2/2018 due to violation of the provisions of the Excise Act.

A show cause has been filed on behalf of the
District Magistrate, Jamui.

In pursuance to the detailed order passed by us on
10.7.2018, the counter affidavit has been filed by the State



Government on behalf of the Chief Secretary of the State and the affidavit is sworn in by the Special Superintendent, Excise, Prohibition and Registration Department, Government of Bihar, Patna.

On a perusal of the averments made in the counter affidavit and the orders issued enclosed therewith as Annexure A note-sheet and Annexures D and E, the Circulars issued to various authorities, we find that realizing the fact that under Section 56 of the Bihar Excise and Prohibition Act, 2016, confiscation of a vehicle is not permissible when the vehicle is not used for transportation of any liquor or prohibited item, but it is only found that the vehicle was being driven by a person who was in a drunken condition. Taking note of the aforesaid counter affidavit, we direct that now in pursuance to the orders passed as is contained in Annexures A, D and E, in confiscation proceeding pending in the State where the only allegations are pertaining to driving of a vehicle under drunken condition and from the vehicle in question, there is no seizure of any liquor. The confiscation proceedings be withdrawn and the vehicle be released unconditionally to the owner of the vehicle subject to the condition that the State shall have liberty to proceed against the accused in accordance with law with regard to the offence



committed by drinking in a State where the prohibition law is in force.

This order will apply only in such cases where seizure of the vehicle is only on account of the fact that owner or driver is found driving in drunken condition.

As far as the present case is concerned, the vehicle in question shall be released to the petitioner unconditionally, without any impediment, if the requirement of law as indicated hereinabove are fulfilled.

With the aforesaid, this petition stands allowed and disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

K.C.jha/-

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