

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15248 of 2018

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Mohan Kumar @ Mohan Sah, S/o Hanuman Sah, R/o Village- Dadar Kolhua,
P.S.- Ahiyapur, Dist- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Excise Commissioner, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The Senior Superintendent of Police, Muzaffarpur.
5. The Excise Superintendent, Muzaffarpur.
6. The Station Head Officer, P.S.- Town, Muzaffarpur.
7. The Investigation Officer of Town, P.S. Case No. 514/18, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anish Kumar, 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 02-08-2018 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 Apache

Motorcycle, bearing Chassis No. MD634BE41J2D47492 along

with cash seized in connection with Town P.S. Case No. 514 of

2018.

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 Mohan Kumar for being or driving in a drunken condition.

Accordingly, confiscation of the vehicle shall stand quashed and vehicle along with cash 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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