

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15146 of 2018

Nilu Kumari, D/o Sudhir Patel, R/o Ashram Tola, Fudichak, P.S.- Gogri,
Distt- Khagaria. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Patna.
2. The District Magistrate, Katihar.
3. The Superintendent of Police, Katihar.
4. The S.H.O. Kursela Police Station. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s : Mr. Anil Kumar Sinha -GA1

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 her or proposed to be initiated against her, so also seizure of his vehicle (Motorcycle) hearing Registration No. BR-34L-5860, seized in connection with Kursela P.S. Case No.69 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 on 31.07.2018 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 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)

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