

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.385 of 2019

Arising Out of PS. Case No.-453 Year-2018 Thana- DIGHA District- Patna

Pushpraj Singh S/o Vinay Singh, resident of village-Bodha Chhapra, P.S-Awtarnagar, P.O-Bodha Chapra, Saran at present residing at House of Smt. Veena Singh Wife of shasherbahadur Singh, T.N.Path Kankarbagh, Patna, P.S.- Jakanpur Police Station, Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Superintendent of Police, Patna
3. Commissioner/Director, State Excise Department, Bihar, Patna
4. Officer-Incharge, of (Seizure), Patna
5. Dy.Superintendent of Police, Patna Sadar
6. Officer-Incharge, of Digha Police Station, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Krishna Kumar Singh, Advocate
For the Respondent/s : Md. Nadim Seraj, GP-5
Ms. Shalini, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 15-02-2019

This writ petition has been filed by the petitioner for release of motorbike bearing registration no. BR 01 DK 0286 seized in connection with Special Case No. 8302 of 2018 arising out of Digha P.S. Case No. 453 of 2018 registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

2. It is submitted by the learned counsel for the petitioner that the motorcycle in question was seized on 08.09.2018. The petitioner is not an accused in this case. He has filed an application for release of the motorcycle in question in the court of Special Judge, Patna in which a report has already



been called for from the police on 07.10.2018, but till date no final order has been passed. He contended that the delay caused in disposal of the application for release is causing a lot of inconvenience to the petitioner. At the same time, since the motorcycle is being kept in open space in the police station, the same would turn into junk, if not released.

3. Per contra, learned counsel for the State submitted that two parallel proceedings, one before the Special Judge and another before this Court in respect of the same relief cannot be maintained. She contended that the petitioner has not annexed the order-sheet of the court below. Thus, it cannot be said that the delay in disposal of the application for release of the motorcycle is not because of the negligence of the petitioner.

4. I have heard learned counsel for the parties and perused the record.

5. True it is that the petitioner has not brought on record the order-sheet of the court below. It is not known why the application for release of the motorcycle is pending. However, if an application for release of motorcycle under Section 451 of the Code of Criminal Procedure has been filed before the court of Special Judge, the same is required to be disposed of forthwith. A parallel proceeding for release of



motorbike and that too under the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India cannot be maintained.

6. In that view of the matter, the writ petition is dismissed as not maintainable.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
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