

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6023 of 2019

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Vikash Kumar, aged about 21 years, (male), Son of Vijay Yadav, R/o Village-
Bahadurpur, P.S.-Gogari, District-Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary of Excise Department,
Government of Bihar, Patna
2. The Collector-cum-District Magistrate, Khagaria
3. The Superintendent of Police, Khagaria
4. The Station House Officer, Gogari Police Station, District-Khagaria

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Praveen Kumar Agrawal, Advocate
For the Respondent/s : Mr.Kumar Manish (SC5)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 23-04-2019

Heard.

Counsel for the petitioner submits that it is simply because the Tata Sumo was struck in a ditch and was loaded with liquor that not only the Tata Sumo vehicle but also the motorcycle of the petitioner has been seized even in absence of recovery. While counsel for the State opposes the prayer for release, it is submitted that the petitioner was part of the nexus, the fact remains that there is no allegation of recovery of



liquor from the motorcycle.

Counsel for the petitioner submits that final order has been passed by the Confiscating Authority, i.e., the Collector-cum-District Magistrate, Khagaria in Confiscation Case No. 466 of 2018-19.

We have heard learned counsel for the parties and we have perused the records and do find that there is no recovery from the motorcycle in question and in such situation, there was no occasion for the Confiscating Authority to have confiscated the vehicle of the petitioner from which no recovery was made nor was being used for transporting of liquor. In absence of recovery, Section 56 of the Bihar Prohibition and Excise Act does not come into play nor there lies jurisdiction for the Confiscating Authority to order for confiscation of the vehicle of the petitioner.

We accordingly quash the order dated 14.12.2018 passed by the District Magistrate, Khagaria in Confiscation Case No. 466 of 2018-19 in so far as it concerns the motorcycle in question bearing Registration No. BR34J-0380 and to that extent, the order is set aside. The District Magistrate-cum-Collector, Khagaria is directed to release the motorcycle of the



petitioner within 7 days of production of the ownership papers.

The writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Nasimul/-

AFR/NAFR	NAFR
CAV DATE	N/A
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