IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.539 of 2019

Arising Out of PS. Case No.-55 Year-2017 Thana- RAIYAM District- Darbhanga

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Chandra Mohan Kumar, S/o Uday Narayan, Resident of Village-Bisfi Dih, P.O and P.S-Bisfi, District-Madhubani-847122.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna
2. The Excise Commissioner Bihar, Patna.
3. The Collector-cum-District Magistrate, Darbhanga.
4. The Superintendent of Police, Darbhanga Range, Darbhanga.
5. The S.H.O. Raiyam P.S., Darbhanga.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ Manu, Advocate

For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date : 01-04-2019

This writ petition under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for directing the respondents to release the Hero Passion Pro motorcycle bearing Registration No. BR-07U-0884 seized in connection with Confiscation (Excise) Case No.21 of 2018 arising out of Raiyam P.S. Case No. 55 of 2017 dated 06.12.2017 registered for the offence punishable under Sections 30(a) and 41 of the Bihar Prohibition and Excise Act, 2016 (for short 'Excise Act'). The petitioner has further prayed to set aside the order dated

16.03.2018 passed by the Collector, Darbhanga in connection with Confiscation(Excise) Case No.21 of 2018.

2. From the pleading of the petitioner, it would be manifest that the motorcycle in question was seized in connection with the aforesaid Raiyam P.S. Case No.55 of 2017. After the seizure of the motorcycle, a confiscation proceeding was initiated by the court of Collector, Darbhanga. The petitioner contested the confiscation case. After hearing the parties, in exercise of powers conferred under Section 58 of the Excise Act, the learned Collector confiscated the motorcycle in question vide impugned order dated 16.03.2018.

3. Against the final order passed by the Collector an appeal would lie before the Excise Commissioner in view of the statutory provision prescribed under sub-section (2) of Section 92 of the Excise Act.

4. In view of the availability of an equally efficacious statutory remedy of appeal to the petitioner under sub-section (2) of Section 92 of the Excise Act, I am not inclined to entertain the present application in extraordinary writ jurisdiction.

5. Accordingly, the writ application is dismissed with liberty to the petitioner to avail of the statutory remedy of appeal

under sub-section (2) of Section 92 of the Excise Act for the redressal of his grievance.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.04.2019
Transmission Date	03.04.2019