

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9995 of 2019

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Vakil Yadav @ Wakil Yadav Son of Ramdhani Yadav Resident of Village-
Girdhara, P.S.- Paraiya, district- Gaya (Bihar) Petitioner/s
Versus

1. The State of Bihar Through the Secretary Department of Excise Government of Bihar, Patna.
 2. The District Magistrate Aurangabad.
 3. The Superintendent of Police Aurangabad.
 4. The Officer in- Charge Rafiganj Police Station, District- Aurangabad.
- Respondent/s

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Appearance :

For the Petitioner/s : Mr.Leelawati Kumari
For the Respondent/s : Mr.Kumar Manish (Sc5)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 01-08-2019

Heard learned counsel for the petitioner and learned counsel
appearing on behalf of the State.

The petitioner is owner of Autoricksaw and prays for
provisional release of his vehicle bearing registration No. BR02AA6941
which has been seized in connection with Rafiganj P.S. Case No. 72 of
2019 for the offences punishable under section 30(a) of the Bihar
Prohibition and Excise Act, 2016.

Counsel for the petitioner informs that it is for alleged
recovery of 650 kg of Mahua flower that has given rise to Rafiganj P. S.
Case No. 72 of 2019 for alleged violation of the provisions of Section
30(a) of the Bihar Prohibition and Excise Act (For Short 'the Act').

The issue as to whether a seizure of Mahua flower can be
a subject matter of confiscation proceeding under the Act came up for



consideration in a batch of cases arising out of CWJC No. 23163 of 2018 (Umesh Kumar Vs. the State of Bihar & Ors.) and analogous cases and this Court after discussing the legal position have held that no confiscation proceedings would lie under ‘the act’ for alleged recovery of Mahua flower exceeding 5 kg which is the limit fixed under the Bihar Mahua Flowers Rules, 2006. Consequently the confiscation proceedings were held unsustainable and vehicle directed to be released.

In view of the legal position settled by this Court in CWJC No. 23163 of 2018, we accordingly, quash the confiscation proceeding, if any, initiated against the petitioner arising from Rafiganj P.S. Case No. 72 of 2019 for alleged possession 650 kg of Mahua flower and consequently direct that the vehicle in question be released forthwith and within a fortnight in favour of the petitioner on production of ownership and registration with respect to vehicle in question in his name before the confiscating authority.

This writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
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