

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10900 of 2019

Navlesh Kumar S/o Ram Dev Yadav Vill.- Bara (Mohanpur), P.O. and P.S.-
Mohanpur, Distt.- Gaya Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna
2. The District Magistrate Gaya
3. The Superintendent of Police Gaya
4. The S.H.O. Barachatti Sherghati, Distt.- Gaya

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 20-08-2019

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

The petitioner is owner of Hero Splendor Motorycle and prays for provisional release of his vehicle bearing registration no. BR02AK9633 which has been seized in connection with Barachatti (Mohanpur) P.S. Case No. 451 of 2018 registered for the offence punishable under Section 30(d) of the Bihar Prohibition and Excise Act, 2016.

Counsel for the petitioner informs that it is for alleged recovery of 100 kg. of Mahua flower that has given rise to Barachatti (Mohanpur) P.S. Case No. 451 of 2018 for alleged violation of the provisions of Section 30(d) 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 C.W.J.C. No. 23163 of 2018 (Umesh Kumar Vs. the State of Bihar & Ors.) and analogous cases and this Court after discussing the proceedings held that no confiscation proceedings will lie for alleged recovery of Mahua Flower exceeding 5 Kg which is the limit fixed under the Bihar Mahua Flower Rules, 2006. Consequently the confiscation proceedings were held to be unsustainable.

We accordingly direct that the vehicle in question be released forthwith within a fortnight in favour of the petitioner on production of ownership and registration paper with respect to the vehicle in question in his name before the court below.

The Authority will examine the judgment in the above batch case of Umesh Kumar Vs. State of Bihar and Ors. and decide whether to proceed with the confiscation proceeding or to drop it.

The writ petition is allowed.

(Shivaji Pandey, J)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
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