

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18320 of 2019

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Lakshmi Kumari, aged about 20 years, Gender – Female, Daughter of Kamlesh Sah, Resident of Village- Phakuli, P.S. Chapra Muffassil, District-Saran at Chapra.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Saran at Chpara.
3. The Assistant Excise Commissioner, Saran at Chapra.
4. The Superintendent of Excise, Saran at Chapra.
5. The Superintendent of Police, Saran at Chapra.
6. The Vehicle Inspector, Saran at Chapra.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh, Advocate
For the Respondent/s : Mr. Vikash Kumar (Sc11)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

2. 16-12-2019 Heard learned counsel appearing for the petitioner as well as learned counsel for the State.

This writ application has been filed for release of Honda Shine Motorcycle, bearing registration no. BR04P-8514, which has been seized in connection with Saran (Chapra) Muffassil P.S. Case No. 481 of 2018 registered for the offences punishable under the Bihar Prohibition and Excise Act, 2016.

The Annexure – 3 to the petition goes to show that the



Inspector-cum-Officer incharge of Chapra Muffassil Police Station reported to learned Additional Sessions Judge-cum-Special Judge, Excise, Saran, Chapra on 06-07-2019 that he has already sent proposal to the District Magistrate, Chapra for initiation of confiscation proceeding of above-stated seized motorcycle.

Section 58 of Bihar Prohibition and Excise Act, 2016 gives power to District Collector to initiate proceeding of confiscation. It is well settled law that if confiscation proceeding is initiated in connection with a seized vehicle, the Court has got no jurisdiction to pass any order in respect of the seized vehicle. However, there is nothing on the record to show that confiscation proceeding in respect of the above-stated seized vehicle has been initiated, though, it is said that proposal for initiation of confiscation proceeding has been sent to the District Collector.

In our view, mere sending up proposal of confiscation proceeding does not bar this Court from passing any order in respect of the seized vehicle.

The applicant claims herself to be owner of the seized vehicle and she has annexed some documents in respect of her above-stated motorcycle.



In the aforesaid circumstance, the above-stated seized motorcycle i.e. Honda Shine, bearing registration no. BR04P-8514, which has been seized in connection with Saran (Chapra) Mufassil P.S. Case No. 481 of 2018, is ordered to be released in favour of the applicant after execution of bond of Rs. 80,000/- (eighty thousand). The learned Additional Sessions Judge-cum-Special Judge, Excise, Saran, Chapra shall verify the original documents of the aforesaid vehicle, before release of the said motorcycle, in favour of the applicant/petitioner.

Accordingly, this writ petition stands disposed of.

(Hemant Kumar Srivastava, J.)

(Prabhat Kumar Singh, J.)

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