

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.302 of 2019

Ashok Saw Son of Late Lalmuni saw Resident of Village-Ore PO-Newri ,
P.S.Belaganj,Distt.-Gaya Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Excise Department Govt. of Bihar,Patna
... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nagendra Sharma, Advocate
For the Respondent/s : Mr.Anil Kr. Sinha- Gal

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

Date : 29-07-2019

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

The petitioner prays for provisional release of the
Motorcycle (Passion Pro) bearing registration No. BR02W0834
which has been seized in connection with Belaganj P.S. Case
No. 217 of 2018 for the offence punishable under section
30(B) of the Bihar Prohibition and Excise Act, 2016 and Rule
2(e), 3,5(b), 18 and 42 of the Bihar Mahua Flowers Rules, 2006.

Counsel for the petitioner informs that it is for alleged
recovery of 50 Kg of Mahua flower that has given rise to
Belaganj P.S. Case No. 217 of 2018 for alleged violation of the
provisions of section 30(B) of the Bihar Prohibition and Excise
Act, 2016 and Rules 2(e), 3, 5(b),18 and 42 of the Bihar Mahua
Flowers Rules, 2006. (for short 'the Rules)

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 have held that no confiscation proceedings would lie 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 following the legal position so settled.

We accordingly, quash the confiscation proceeding, if any, initiated against the petitioner arising from Belaganj P.S. Case No. 217 of 2018 for alleged possession of 50 Kg of Mahua flower and consequently direct the District Magistrate, Gaya to forthwith release the vehicle of the petitioner on production of ownership papers.

Writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

