

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.704 of 2020

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Pinki Kumari @ Pinki Devi Wife of Ajay Kumar @ Doma, Resident of Village-Jivachhpur, Ward No.11, Police Station-Gamharia, District-Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise Registration Department, Government of Bihar, Patna.
2. The Principal Secretary, Prohibition, Excise Registration Department, Government of Bihar, Patna.
3. The Collector, Madhepura.
4. The Superintendent of Police, Madhepura.
5. The Superintendent of Excise, Madhepura.
6. The S.H.O. Gamhariya Police Station, District-Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pawan Kumar
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-07-2020

Heard learned counsel for the petitioner and learned counsel for the State.

Petitioner has prayed for the following reliefs: -

“(i) For direction the respondent-authorities to release the Super Splender Motorcycle in question bearing Registration No.-BR 43E-7379, Chassis No.-MBLJA05EME9L21092, Engine No. JA05ECE9L 20821 in favour of petitioner which



was seized by the police in Gamhariya P.S. Case No.182/2019 dated 02.12.2019.

(ii) For direction the respondent-Authorities not to take any coercive action against the said Motorcycle during pendency of the present writ application.”

Learned counsel for the petitioner prays that the petition be disposed of in terms of order dated 9th January, 2020 passed in **CWJC No. 20598 of 2019 titled as Md. Shaukat Ali Vs. The State of Bihar** and subsequent order dated 14th January, 2020 passed in **CWJC No.17165 of 2019 titled as Umesh Sah Versus the State of Bihar & Ors.** and order dated 29.01.2020 passed in **CWJC No.2050 of 2020 titled as Bunilal Sah @ Munilal Sah.**

Learned counsel for the respondents has no objection to the same.

The Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the Act) prohibits the manufacture, storage, distribution, transportation, possession, sale, purchase and consumption of any intoxicant or liquor, unless so allowed in terms of the Act. (Section 13).

In addition to the penalty imposed for committing such an offence, Section 56 of the Act lays down the procedure



for confiscation of “things” used for in the commission of such an offence. The said Section reads as under:

“56. Things liable for confiscation.-

Whenever an offence has been committed, which is punishable under this Act, following things shall be liable to confiscation, namely-

- (a) Any intoxicant, liquor, material, still, utensil, implement, apparatus in respect of or by means of which such offence has been committed;
- (b) any intoxicant or liquor unlawfully imported, transported, manufactured, sold or brought along with or in addition to, any intoxicant, liable to confiscation under clause (a);
- (c) any receptacle, package, or covering in which anything liable to confiscation under clause (a) or clause (b), is found, and the other contents, if any, of such receptacle, package or covering;
- (d) any animal, vehicle, vessel or other conveyance used for carrying the same.
- (e) Any premises or part thereof that may have been used for storing or manufacturing any liquor or intoxicant or for committing any other offence under this Act.

Explanation.- The word “premises” include the immovable structure, all moveable items within the structure and the land on which the premises is



