

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4905 of 2020

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Ramjee Paswan Son of Late Munna Paswan Resident of Mohalla- Dnahiya
Bagicha, Police Station- Delha and District- Gaya.

... .. Petitioner/s

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, Gaya.
3. The Senior Superintendent of Police, Gaya.
4. The Excise Superintendent, Gaya.
5. The Officer-in-Charge, Sherghati Police Station, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manish Kumar No2
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 13-07-2020

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

Petitioner has prayed for the following relief:-

“That this present writ application is being filed for issuance of appropriate writ/writs, order/orders, direction/directions to the respondent authorities to release the vehicle (Motorcycle TS Apache RTS 160) of the petitioner bearing Registration NO. BR 02AN 2100 having Engine N. BE4BJ2115397 and Chassis NO. MD634BE4XJ2B15599 in favour of the petitioner, which was seized by the Sharghati Police Official, Gaya in connection with Sharghati PS Case No. 603 of 2019 registered for offence under section 279 of the Indian Penal Code and Section 37(1) of Bihar Prohibition & Excise Act, 2016 and/or for any other relief or reliefs to which the petitioner may be found entitled to in course of hearing of



this writ application.”

Allegation is of riding motorcycle in a rash and drunken condition as a result of which accused fell down along with motorcycle and got himself injured and thereafter was taken by the informant for primary treatment and breath analyzer test, which tested positive, and for which FIR was lodged giving rise to Sherghati PS Case No. 603 of 2019 instituted for the offence punishable under Section 279 of IPC and section 37(1) of Bihar Prohibition & Excise Act, 2016.

Petitioner claims to be the owner of the vehicle and since there is no recovery of any illicit liquor and allegation is of driving vehicle in a drunken condition as such, vehicle is not liable for confiscation and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable, and concerned Special Court (Excise) can exercise jurisdiction under Section 451 of Cr.P.C for release of the vehicle during pendency of criminal trial.

The writ petition is disposed of with liberty to petitioner to file a petition under Section 451 of Cr.P.C for release of vehicle before the concerned Special Court (Excise), where the trial of case arising out of Sherghati PS Case No. 603 of 2019 is pending and the Special Court (Excise) is directed to dispose of



such petition within 30 days from the date of filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

