

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3643 of 2020

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Amit Kumar @ Amit Kumar Ram, Son of Jangali Ram @ Gaurishankar Ram,
Resident of Village- Bansohi, P.s.- Mahrakh, District- Saran

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna
2. The Principal Secretary, Excise, Government of Bihar, Patna
3. The District Magistrate, Saran
4. The Superintendent of Police, Saran
5. The Excise Superintendent, Department of Excise, Saran
6. The S.H.O. Mashrakh, P.S., District- Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arbind Kumar, Adv.
For the Respondent/s : Mr.Kumar Manish (SC5)

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(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence).

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

Date : 25-08-2020

Heard parties.

Petitioner has prayed for following reliefs:-

“For issuance of writ/writs,
direction/directions, For issuance of
writ/writs, direction/directions,
command/commands and their by
issue direction to the respondent
authorities especially respondent no.3
to release the Hero HF Deluxe
motorcycle of the petitioner bearing



registration no. BR-29 AH-5660, Engine No. HA11ENKHD02283, Chasis No. MBLHAW028 KHD01398 in favour of petitioner which has been seized by the Respondent no.6 in connection with Mashrakh P.S. Case No. 392 of 2019 dated 11.09.2019 by lodging and FIR U/s. 341, 323, 379, 504 of the Indian Penal Code and Section 34 and 37 (C) of Bihar Prohibition and Excise Act, 2016 whereby and where under it has been alleged that on 11.09.2019 at about 8:30 P.M. that two persons this petitioner and Vikash Kumar after stopping the vehicle started abusing and snatched Rs. 20,000/- from the pocket of informant and assaulted with danda on hand and also snatched a golden chain and on hulla villagers came and accused persons fled away leaving his bike and giving threatening of shot fire if any case is being lodged. It has further been alleged that both accused persons are having kata in their hand.”

This writ petition has been filed for release of vehicle which has been seized by the Police and application filed by petitioner for release of the vehicle has been rejected by the Special Excise Court, Saran at Chapra on the ground that vehicle is liable for confiscation under the Excise Act and in view of Section 60 of the Act no court shall have jurisdiction to make any order with regard to such property which are liable



for confiscation.

From the reading of FIR as well seizure memo it is apparent that no illicit liquor has been recovered from the seized motorcycle or possession of petitioner and allegation under excise act is of being in drunken condition as such the motorcycle is not liable for confiscation and Special Court, Excise has jurisdiction to pass order with respect to release of the vehicle, as such, the order dated 03.01.2020 passed by Special Excise Court, Saran at Chapra in Mashrakh P.S. Case 392 of 2019 is set aside and the Special Excise Court is directed to pass a fresh order on the petition filed by petitioner for release of the vehicle within 30 days from the date of receipt/production of a copy of order passed by this court.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

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

