

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5111 of 2020

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Amit Kumar Son of Madan Chaudhary, Resident of Village Rampur Waina,
P.O. Rampur Waina, P.S. Parasi, District- Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The District Magistrate, Arwal.
3. The Excise Superintendent, Arwal.
4. The Superintendent of Police, Arwal.
5. The S.H.O. Parasi, Police Station, Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Paras Nath
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 MR. JUSTICE S. KUMAR)

Date : 14-07-2020

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

Petitioner has prayed for the following relief:-

“(i) For issuance of an appropriate writ/writs, order/orders,
direction/directions in the nature of mandamus and Certiorari
directing the respondent no. 2 to release the Discover Bajaj
Motorcycle bearing registration no. BR01 EN 1584 , Chasis
NO. MD2B44BY1JRE26183, Engine No. JZYRJE23094 in
favour of the petitioner during pendency of Excise Case No.
1283/019 arising out of Parasi PS Case No. 1283/019 dated
18.11.2019 which was illegally seized by the informant who
is the S.I of Parasi Police Station, may be issued.”

Informant has alleged that he received confidential



information while on day patrolling that FIR named accused are preparing country made liquor in a potato field and as he reached said place, miscreants assembled there started fleeing away, however, two accused were apprehended who disclosed the name of other accused who managed to escape and he found that in the field, three motorcycles were parked and articles used in manufacture of country made liquor such as gas cylinder and utensils alongwith illicit liquor were recovered and seized for which FIR was lodged giving rise to Parasi PS Case No. 1283/019 dated 18.11.2019 under Section 30 (a)(d) of Bihar Prohibition & Excise Act, 2016.

It is submitted by learned counsel for the petitioner that it is apparent from reading of FIR as well as seizure memo that no illicit liquor was recovered from the seized motorcycle, as such motorcycle is not liable for confiscation under Section 56 of the Bihar Prohibition & Excise Act, 2016 and accordingly bar of jurisdiction in confiscation as contemplated under Section 60 of the Act is not applicable and Special Court (Excise) has jurisdiction to pass order of release of seized motorcycle in view of law laid down by this court in case of **Diwakar Kumar Singh Vs. State of Bihar** reported in **2018 3 PLJR 403** which has been followed by Excise Commissioner, Bihar, Patna in his



order dated 16.01.2010 passed in Appeal Confiscation Case No. 107 of 2019.

It is submitted on behalf of petitioner that no confiscation proceeding has been initiated in this case and even if any confiscation proceeding has been initiated against the vehicle, same is directed to be dropped.

The writ petition is disposed of with liberty to petitioner to file a petition under Section 451 of Cr.P.C. for interim release of vehicle during pendency of criminal trial before the Special Court (Excise) and the Special Court (Excise) is directed to dispose of said petition within 30 days from the date of filing of such petition.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

