

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6967 of 2020

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Nitesh Kumar son of Arbind Ojha Resident of Village- Rampur Bakhara, P.S.-
Bhagwanpur, District- Vaishali at Hajipur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
New Secretariat, Bihar, Patna
2. The District Magistrate, Vaishali at Hajipur
3. The Superintendent of Police, Vaishali at Hajipur
4. The Officer-in-Charge, of Bhagwanpur Police Station, District- Vaishali at
Hajipur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar Verma, Mr. Devendra Kumar, Mr. Ranjit Kumar, Advocates
For the Respondent/s	:	Mr. Kumar Manish (Sc5)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

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

Date : 03-12-2020

Heard the parties.

Petitioner has prayed for following relief:-

“Petitioner craves indulgence of this Hon’ble
Court for issuance of an appropriate writ in the nature of
mandamus, directing the respondents to release Glamour
Motorcycle of the petitioner bearing Registration No.
BR31AH7995, Chassis No.MBLJAW103KGD64851,
Engine No. JA06ERKGD72073, seized in connection
with Bhagwanpur P.S. Case No.176/2019 u/s 414 of the
IPC and Section 30(a) of Bihar Prohibition and Excise
Act, 2016.”



Petitioner claims to be owner of the seized motorcycle.

It is apparent from the FIR and seizure list that no illicit liquor has been recovered from the seized motorcycle and recovery of liquor is from poultry farm and motorcycle was parked outside the poultry farm as such seized motorcycle is not liable for confiscation under Section 58 of the Excise Act and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable, as such, Special Court, Excise where the excise case is pending has jurisdiction to release the seized motorcycle.

Accordingly, the order dated 11.12.2019 passed by Special Court, Excise in Bhagwanpur P.S. Case No.176 / 19 is set aside and Special Court, Excise, Vaishali at Hajipur is directed to pass a fresh order on the petition filed by petitioner for release of his vehicle within 30 days from the date of receipt/production of a copy of order passed by this Court.

This writ application stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2020
Transmission Date	NA

