

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6619 of 2020

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Ishak Miya @ Md. Ishak @ Md. Ishak Miya Son of Gujai Miya resident of Village- Ward No. 13, Bontol Kariaut, P.O.- Kariaut, P.S.- Laukahi, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Excise And Prohibition Govt. of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Madhubani.
3. The Superintendent of Police, Madhubani.
4. The S.H.O. Laukahi Police Station, Madhubani, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gagan Deo Yadav
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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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 : 02-11-2020

Heard the parties.

Petitioner has prayed for following relief:-

“That the present civil writ petition is being filed for release for vehicle Apache Motorcycle Chasis No. MD634CE41K2K12470, Engine No. CE4KK2212335, belongs to the petitioner, which has been seized by Laukahi police station (arising out of Laukahi PS Case No. 05/2020 dated 08.01.2020 under sections 272, 273, 414/34 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act, 2018. Confiscation proceeding has not been initiated against the petitioner’s vehicle pending in the court of learned ADJ-II cum Special Judge (Excise), Madhubani.”

Informant is a police officer who has alleged in his written complaint that on 08.01.2020 he received information



that one SCORPIO vehicle and one motorcycle has fallen from the bridge and lying in the water and on such information he alongwith other police personnel reached the place of accident and pulled out the SCORPIO vehicle and motorcycle, and from SCORPIO vehicle illicit liquor was recovered and in presence of independent witnesses SCORPIO vehicle and 918 litre of illicit liquor recovered from the SCORPIO vehicle as well as motorcycle was seized giving rise to Laukahi PS Case No. 05/2020 dated 08.01.2020 registered for the offences punishable under sections 272, 273, 414/34 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

As there is no recovery of any illicit liquor from the motorcycle, same is not liable for confiscation under Section 56 of the Excise Act and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and as such Special Court Excise where the Excise case is pending has jurisdiction to pass order of release of the motorcycle.

Petitioner claims to be the owner of the seized motorcycle and since there is no recovery of any illicit liquor from the motorcycle, the writ petition is disposed of with a liberty to petitioner to file an application under section 451 of Cr.P.C. for release of his motorcycle and if any such petition is



filed the Special Court Excise shall 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	02.11.2020
Transmission Date	NA

