

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7634 of 2020

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Mantun Kumar S/o Yogendra Sahni, R/o Village-Arwa, Bachhawara, P.S.-
Bachhawara, District-Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise Department, Bihar.
2. The Divisional Commissioner, Excise Department, Patna.
3. The District Collector, Begusarai.
4. The Officer-in-Charge of Bhagwanpur Police Station, District-Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar, Adv.

For the Respondent/s : Mr. Lalit Kishore (AG),

: Mr.Vikash Kumar SC-11

(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 : 16-09-2020

Heard the parties.

Petitioner has prayed for following relief:-

“ That the present writ application is
being filed for direction to the
respondents authority to release the
Blue & Black colour Hero Glamour
motorcycle bearing Registration No.
BR09AB6592, Engine No.
JA06ERJGL14376, Chasis No.



MBLJAR025JGL10533 in favour of the petitioner which has been seized by the respondent in connection with Bhagwanpur P.S. Case No. 51 of 2019 registered for the offence punishable under section 30(a) of Bihar Prohibition and Excise Amendment Act 2016 which is pending to the court of learned Additional Sessions Judge-II-cum-Special Judge (Excise Act), Begusarai.”

Informant is a police officer who has alleged in his complaint that while on patrolling duty he received information that Umesh Paswan is indulged in sell of illicit mahua wine and as he reached said place he saw four miscreants standing by the side of road with one gallon and as they saw the police they tried to flee away however two of them were nabbed after chase who disclosed their name and they were arrested and mahua wine kept in gallon and motorcycle parked there were seized.

As the seized motorcycle was being used for transportation of illicit liquor as such motorcycle is liable for confiscation and bar of jurisdiction in confiscation under section



60 is applicable in such cases and vehicle seized or detained under this act courts have no jurisdiction to make any order with regard to such property. As such, the Special Court has rightly rejected the petition of petitioner for release of his motorcycle as contained in “Annexure -3 of petition.

From the order passed by the Special Court Excise as contained in Annexure-3, it is also apparent that the concerned police station has sent its report dated 22.10.2019 to the Special Court in which it has been stated that the owner of the vehicle is Mantun Kumar (petitioner) and recommendation for confiscation of said vehicle has been made to District Magistrate, Begusarai.

The writ petition is disposed of with a direction to the petitioner to appear before the District Collector/Confiscating Officer, Begusarai, on 28.09.2020 and District Collector, Begusarai, shall initiate confiscation proceeding if not yet initiated and serve a notice of confiscation proceeding if not yet served upon the petitioner and thereafter petitioner shall file his show-cause within 15 days thereafter and the District Collector/Confiscating Officer shall conclude the proceeding within 90 days from the date of filing his show-cause, failing which District Magistrate, Begusarai shall provisionally release



the vehicle of petitioner after due identification of ownership of the vehicle and on production of ownership and registration with respect to vehicle in question in his name with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

- (i) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.
- (ii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when required.
- (iii) Prior to release of the vehicle, a Panchanama would be prepared wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama.



The release shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above, which would however be subject to finalization of the confiscation proceeding.

With said observations, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

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

