

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8027 of 2020

=====

Aaysha Khatoon, W/o- Yunus Miyan, Resident of Village - Din Dayal Nagar,
Ward No. -27, P.S. - Bagaha, Distt. -West champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Commissioner Excise Department, Govt. of Bihar, Patna.
2. The Commissioner, Excise, Bihar, Patna.
3. The Collector, West Champaran, Bettiah.
4. The Superintendent of Police, Bagaha Police, District- West Champaran.
5. The Officer-in-Charge of Bagaha Police Station, West Champaran.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Vijay Kr Singh No. 1, Advocate
For the Respondent/s : Mr. Kumar Manish, SC 5

=====

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 : 28-09-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

“(I) For issuance of appropriate writ/writs for direction to respondents authorities concerned to release the vehicle in question which is a Hero Splendor Plus Motorcycle bearing Regd. No.BR22AN5582 was seized in Bagaha P.S. Case No.639/2019 for the offence under Section 30(a) of the Excise Act and the same is lying under open sky in the police station premises under the control of Excise Department.

(ii) For further relief/reliefs which may deemed fit and proper under circumstances of the case.”

Informant is a police officer who has alleged in his



written complaint that on 07.12.2019 he was on night patrolling duty along with other police personnel when he received an information that Yunus Miyan has brought illicit liquor from Uttar Pradesh and concealed in his house and upon receiving said information, he reached the house of Yunus Miyan and 35 to 40 persons assembled there tried to flee away on seeing the police and from the house of Yunus Miyan 14.580 liters country made liquor was recovered and motorcycle parked in the courtyard and illicit liquor recovered were seized, however, Yunus Miyan managed to escape from his house for which FIR was lodged giving rise to Bagaha P.S. Case No.639/2019 for the offence under Section 30(a) of the Excise Act.

It has been submitted on behalf of the petitioner that she is owner of the vehicle and as seized motorcycle was not used for transportation of illicit liquor, as such, same is not liable for confiscation under Section 56 of Excise Act and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and the Special Court, Excise where the case is pending has jurisdiction to pass an order for release of the seized vehicle.

Petitioner is granted liberty to file an application under Section 451 of Cr.P.C. for release of seized vehicle before



the Special Court, Excise where the excise case is pending and Special Court, Excise shall dispose of said petition within 30 days from its filing.

With aforesaid observation and liberty, this writ application is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.10.2020
Transmission Date	NA

