

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8144 of 2020

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Surendra Yadav S/o Bahadur Yadav R/o Village Hasrev, P.S. Chand, District-
Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate cum Collector, Kaimur at Bhabua.
4. The Senior Superintendent of Police, Kaimur at Bhabua.
5. Station Head Officer of Police Station Chand, Kaimur at Bhabua.
6. Assistant Sub-Inspector, Kaimur at Bhabua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan, Adv
For the Respondent/s : Mr. Vikash Kumar SC-11

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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 : 30-09-2020

Heard the parties.

Petitioner has prayed for following relief:-

“That present writ application is being filed with a prayer to issuance of appropriate writ in nature of mandamus or any appropriate writ and order and direction to direct the respondent authorities to release the Honda Yuga motorcycle in black colour, bearing Registration No. BR45L3215, Chasis No. ME4JC58FEKG010222 and Engine No. JC58EG0008967, belonging to the petitioner, which has been seized in connection with Chand P.S. Case No.



206/2020, pending in the court of A.D.J-5th-cum-Special Judge (Excise), Kaimur at Bhabua, instituted under section 290, 506 of the Indian Penal Code and Section 25(1-b)a/35 Arms Act and 37 (1)(Z) of the Bihar Prohibition and Excise (Amendment) Act, 2018. ”

Allegation is recovery of country made arms from the possession of the accused persons and they were found in a drunken condition, who were caught by the villagers and handed over to the police with motorcycle and thereafter accused were arrested and motorcycle was seized.

As there is no allegation of recovery of any illicit liquor from the possession of accused or from the seized motorcycle and allegation is that they were carrying arms in a drunken condition as such seized motorcycle is not liable for confiscation under Section 56 of the Excise Act and bar of jurisdiction in confiscation under Section 60 of the Act is not applicable and the Special Court (Excise) where the excise case is pending has jurisdiction to pass order for release of the seized motorcycle.

Petitioner claims to be owner of the seized motorcycle and is granted liberty to file application under section 451 of Cr. P.C. for release of his seized motorcycle and the Special Court where the excise case is pending shall dispose of such application for release of motorcycle within 30 days from the



date of its filing.

With aforesaid observation and liberty, writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.10.2020
Transmission Date	NA

