

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9248 of 2020

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Hemant Kumar Yadav, S/o Paras Yadav, Resident of Vill.- Chand Kudariya,
P.S.- Masharakh, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The Principal Secretary Excise and Prohibition Department, Bihar, Patna.
2. The District Magistrate-cum- Collector Saran at Chapra.
3. The Superintendent of Police, Saran at Chapra.
4. The Superintendent of Excise, Saran at Chapra.
5. The Deputy Superintendent of Police, Madhaura.
6. The S.H.O./Officer In Masharakh, P.S.- Masharakh (Saran).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Mohan Singh, Adv.
	:	Mr. Kumar Kashyap, Adv.
For the Respondent/s	:	Mr. Vikash Kumar, S.C. 11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 17-12-2020

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

Heard learned counsel for the petitioner and learned counsel for the respondents.

Petitioner has prayed for following relief:-

“To release the vehicle
(Motorcycle) bearing no. BR-04-
AD-5303 in favour of the petitioner



who is owner of the motorcycle, which has been seized in Masharakh P.S. Case No. 59/20 dated 02.02.20 lodged under Sections 147, 148, 149, 341, 323, 427, 379, 354(B), 504, 506 of the Indian Penal Code, under Section 37(C) of the Bihar Excise and Prohibition Act, 2016 and under Section 25(1-B)A, 26, 27 of the Arms Act and for any other relief/s for which petitioner is legally entitled too.”

It is submitted on behalf of petitioner that he is owner of the vehicle which has been seized by the police in connection with Masharakh P.S. Case No. 59/20 in which petitioner is not an accused. FIR has been registered under Section 37(C) of Excise Act and nothing has been recovered from the seized motorcycle, as such, 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 criminal court where the case is pending has jurisdiction to pass order for release of seized vehicle.

The writ petition is disposed of with liberty to petitioner to file an application before the concerned court where criminal case is pending for release of seized vehicle and



the concerned court shall dispose of said petition for release of vehicle within 30 days from the date of its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.01.2021
Transmission Date	NA

