

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8658 of 2020

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Dharmendra Ram S/o Gautam Ram R/o Village- Durgauli, P.O. Bansohi, P.S. Masharakh, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Govt. of Bihar, Excise Department, Old Secretariat, Patna.
2. The District Magistrate, Saran.
3. The Superintendent of Police, Saran.
4. The S.H.O. Masharakh Police Station, Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravi Prakash, Advocate
For the Respondent/s : Mr. Kumar Manish, SC 5

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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 : 04-11-2020

Heard the parties.

Petitioner has prayed for following relief:-

“The present civil writ petition is filed for release of vehicle TVS victor Motorcycle, Registration No.BR04T-8690, Chassis No. MD625MF14G1E56178, Engine No. EF1EG1056534, belongs to the petitioner, which has been seized by A.S.I. Masharakh P.S. Case No. 175/2020 dated 04.04.2020, U/s 341, 188, 279, 353 of the IPC and 37(c) of Bihar Prohibition and Excise Act, 2016, pending in the court of 2nd Additional Sessions Judge-cum-Special Judge (Excise),



Saran at Chapra which is lying in the open sky without any care.”

Informant is a Police Officer who has alleged in his written complaint that on 4.4.2020 at about 5:00 pm. While he along with other police personnel were on patrolling duty, he saw one person riding motorcycle in a rash and negligent manner and stopped his motorcycle in front of police jeep and started abusing and was found in a drunken condition, accordingly, he was apprehended and motorcycle was seized giving rise to Masharakh P.S. Case No. 175/2020 dated 04.04.2020, U/s 341, 188, 279, 353 of the IPC and 37(c) of Bihar Prohibition and Excise Act, 2016.

Petitioner claims to be owner of the seized motorcycle and as no illicit liquor has been recovered from seized motorcycle, same is not liable for confiscation under Section 58 of the Excise Act and bar of jurisdiction in confiscation under Section 60 of the Excise Act will not be applicable in this case and the Special Court, Excise where the excise case is pending, has jurisdiction to pass an order for interim release of the vehicle during pendency of trial.

Accordingly, the order dated 3.7.2020 passed by Special Judge, Excise, Saran in Masharakh P.S. Case No. 175/2020 is set aside and Special Court, Excise, Saran is directed to pass a



fresh order on the petition filed for release of vehicle by the petitioner within 30 days from the date of receipt/production of a copy of order passed by this Court.

With aforesaid observation and direction, this writ petition stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.11.2020
Transmission Date	NA

