

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9306 of 2020

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Kusum Devi Wife of Tunna Yadav resident of village- Jilal Bigha, P.S.-
Masaurhi, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Excise Commissioner, Bihar, Patna
4. The District Magistrate/Collector, Patna
5. The Officer-in-Charge of Masaurhi Police Station District- patna
6. The Investigation Officer, of Masaurhi P.S. Case No. 212/2020, Masaurhi
Police station, District- Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate
For the Respondent/s : Mr. Vivek Prasad, GP 7

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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 : 16-12-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

- (i) To release the tempo bearing registration No.
BR01PH-3446 in favour of the petitioner which
was seized in connection with Masaurhi P.S. Case
No.212/2020 registered for the offence under
Sections 2/3/4 of Mahua Flower Control Act 2016
and 30(d) Bihar Prohibition and Excise Act, 2018
awaiting confiscation.



- (ii) To any other relief/reliefs for which the petitioner found entitled to.”

Allegation is recovery of 15 kg. mahua flower and 500 kg. Gur from the tempo giving rise to Masaurhi P.S. Case No.212/2020 registered for the offence under Sections 2/3/4 of Mahua Flower Control Act 2016 and 30(d) Bihar Prohibition and Excise Act, 2018, accordingly, tempo was seized by police.

It is submitted that Mahua flower and Gur does not come within the definition of intoxicant as defined under the Excise Act, as such, vehicle is not liable for confiscation.

The District Collector/confiscating authority, Patna is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle and on production of ownership and registration documents with respect to vehicle in question in her 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)

Sanjay/-

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

