

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9741 of 2020

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Nawal Kishor Giri @ Naval Kishor Giri, Son of Late Indradev Giri, Resident of Matkakara, P.S.-Dariyapur, District-Saran.

... .. 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.249/2020, Masaurhi Police Station, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar, 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 : 23-12-2020

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 reliefs:-

(A) “A writ in the nature of mandamus or any other appropriate



writ/writs, order/orders,
direction/directions commanding the
respondents for the following:-

(i) To release the tempu bearing
Registration No. BR06PB – 1754 in
favour of the petitioner which was
seized in connection with Masaurhi
Police Station Case No. 249 of 2020
registered for the offence under Section
30(c) of Bihar Prohibition and Excise
Act, 2018 and 2/3/4 of Mahua Full
Control Act, 2016, awaiting
confiscation.

(B) To any other relief/reliefs for which
the petitioner found entitle to.”

Allegation is recovery of 8 bags of Jaggery and one
bag of Mahua Flower from the house of accused Bhim Yadav
and two bag of Jaggery was recovered from the seized tempu
which was being used to carry Jaggery and Mahua flower to the
house of accused.

It is submitted that petitioner is owner of the tempu
which was being driven by the driver carrying aforesaid articles
to the house of accused.

As there is recovery of 2 bags of Jaggery from the
tempu of petitioner which is not intoxicant as defined under the
excise act, unless it is established from attending circumstances



that same was to be used for preparation of country made liquor, as such, the District Collector, Patna is directed to provisionally release the seized tempu in favour of petitioner after his due identification and producing registration certificate and ownership documents in his name on usual terms and conditions as imposed for provisional release of the vehicle during confiscation proceeding.

With aforesaid direction and liberty, the writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.01.2021
Transmission Date	NA

