

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8759 of 2020

=====

Gujan Kumar Singh son of Mahesh Prasad Singh Resident of village Ghataro,
Police Station Kartahan, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise and Prohibition, Govt. of Bihar, Patna.
2. The District Magistrate, Vaishali.
3. The Superintendent of Police, Vaishali.
4. The Excise Superintendent, Vaishali.
5. The Officer In-charge, Kartaha, P.S. Vaishali.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Atul Shankar, Adv
For the Respondent/s : Mr. Vivek Prasad GP-7

=====

(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 : 21-10-2020

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

Petitioner has prayed for the following relief:-

“(i) For issuance of an appropriate writ in the nature
of Mandamus directing the respondent no. 5 to release the



Pulsar Motorcycle belonging to the petitioner having registration no. BR-31-AC1562 engine no. DHYRHF119614 Chasis No. MD2A11CY8HRF119614 seized in connection with Kartaha P.S. Case No. 10 of 2018 dated 06.02.2018 instituted for offences under section 30(a), 32(2), 41(1) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the Act).”

Allegation is that the vehicle of the petitioner was recovered beside the hut in which the FIR named accused persons were trying to drink illicit liquor, giving rise to Kartaha P.S. Case No. 10 of 2018 dated 06.02.2018 instituted for the offences punishable under sections 30(a), 32(2), 41(1) of the Bihar Prohibition and Excise Act, 2016.

As there is no allegation of recovery of any illicit liquor from the seized motorcycle, same is not liable for confiscation under section 56 of the Bihar Prohibition & Excise Act, 2016 and the Special Court (Excise) where the criminal case is pending has jurisdiction to pass order of release of seized motorcycle.

Writ petition is disposed of with liberty to petitioner who is owner of the seized motorcycle to file an application under Section 451 of Cr.P.C for release of his motorcycle in the concerned Special Court (Excise) who shall dispose of



such petition within 30 days from the date of its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

