

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9029 of 2020

Prabhunath Bin, Son of Vikrama Bin, Resident of Village-Alekhi Tola, P.O. Neknam Tola, P.S. Barahara, District Bhojpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Superintendent of Police, Patna.
4. The Officer-in-Charge, Shahpur Police Station, District-Patna.
5. The Investigating Officer of Shahipur P.S. Case No. 224/2020, District-Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashank Shekhar Sinha
For the Respondent/s : Mr. Vikash Kumar, S.C. 11

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

Date : 08-12-2020

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 State.

Petitioner has prayed for following reliefs:-

- (i) "For issuance of writ in the nature of Mandamus or any other appropriate writ(s), order(s) directions to the respondents to release the HERO DELUXE-BS-6



motorcycle bearing registration No. BR-03AD-2390 having Chassis No. MBLHAW14XL9B01540, Engine No. HA11ESL9B11650, which has been seized in connection with Shahpur P.S. Case No. 224/2020 dated 16.06.2020 for the offences under Sections 279, 337, 338 of Indian Penal Code and 37(C) of Bihar Prohibition and Excise Act, 2016.

(ii) For issuance of any other appropriate writ(s), order(s), direction(s) for which the petitioner is entitled in the facts and circumstances of the case.”

Informant has alleged in his FIR that on 16.06.2020 the motorcycle was being driven in a rash and negligent manner which dashed against his nephew and the rider of the motorcycle was found in a drunken condition and thereafter he was caught and handed over to the police giving rise to Shahpur P.S. Case No. 224/20 dated 16.06.2020 under Sections 279, 337, 338 of I.P.C. and 37C of Excise Act.

Petitioner claims to be owner of the seized motorcycle, as there is no recovery of illicit liquor and it is a case of drunken driving, the seized motorcycle 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 is not applicable and the Special Court (Excise) where the excise



case is pending has jurisdiction to pass order for release of seized motorcycle.

The writ petition is disposed of with liberty to petitioner to file a petition for release of his seized vehicle before the Special Court (Excise), which shall be disposed of by the Special Court (Excise) within 30 days from its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2020
Transmission Date	NA

