

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9044 of 2020

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Khursid Alam Son of Nanku Mian Resident of Village- Salaiya, P.S.- Suhail
(Salaiya), District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Government of Bihar, Patna.
2. The Director General of Police, Government of Bihar, Patna.
3. The Commissioner, Excise Dept., Govt. of Bihar, Patna.
4. The District Magistrate, Gaya, District- Gaya.
5. The Excise Superintendent, Gaya, District- Gaya.
6. The Officer-in Charge, Gurua, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Adv
For the Respondent/s : Mr. Vivek Prasad GP-7

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(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 : 14-12-2020

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

"That this writ application is being filed for issuance of a writ in the nature of Mandamus for direction for releasing the the Pick Up vehicle bearing Registration No. BR02Q-3539 which has been seized in Gurua PS Case No. 36/2020 and further issue direction to respondents release the Pick Up vehicle bearing Registration No. BR02Q-3539 to the petitioner as he is ready to furnish surety for release and further give other legal consequential benefit to the petitioner."



Petitioner has filed this case for release of his vehicle which was seized by the police carrying 500 Kgs of Mahua Phool.

In view of judgment and order dated 09.07.2019 passed by a Division Bench of this Court in CWJC No. 23163 of 2018 (Umesh Kumar @ Umesh Mahato Vs State of Bihar and its analogous cases), recovery of mahua flower in its raw form itself does not constitute any offence under Bihar Prohibition & Excise Act, 2016, as mahua flower does not come within the definition of intoxicant defined under section 2(40) of the Act unless it is converted into spirit or spiced spirit or is in process of such conversion.

The writ petition is disposed of with a direction to the petitioner to appear before the District Collector/Confiscating Officer, Gaya, on 28.09.2020 and District Magistrate, Gaya shall 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 his name with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document.

The release shall be allowed within a period of 14 days



from the date of submission of the sureties 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)

ranjan/-

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

