

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8907 of 2020

=====

Savita Devi Wife of Yogendra Yadav, Resident of Village - Gosopali, P.S.-
Hussainganj, District-Siwan.

... .. 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 Inspector General of Police, Bihar, Patna.
5. The District Magistrate/Collector, Siwan.
6. The Superintendent of Police Siwan
7. The Excise Superintendent of Police District-Siwan.
8. The Officer-in-Charge Hussainganj Police Station, District -Siwan.
9. The Investigating Officer of Hussainganj, P.S. Case No. 148/2020 Dated
10.06.2020, Hussainganj Police Station, District-Siwan.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Javed Aslam
		Ms. Devika Rani, Advocates
For the Respondent/s	:	Mr. Vikash Kumar, SC 11

=====

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

Date : 27-11-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

A (A) A writ in the nature of mandamus or any other
appropriate writ/writs, order/orders, direction commanding the
respondents for the following:-



- (i) To release the Apachi Motorcycle bearing registration no.BR 29 AB- 7168, Engine No. BE 4FH 2086581, Chasis No.MD634BE41H 2F 86129 in favour of the petitioner which was seized in connection with Hussainganj P.S. Case No.148/2020 dated 10.06.2020 registered for the offence under Sections 272, 273 of the Indian Penal Code and Section 30(a) 41(i) of the Bihar Prohibition and Excise Act, 2016, awaiting confiscation.
- (ii) To any other relief/reliefs for which the petitioner found entitled to.

It is apparent from the contents of FIR as well as seizure memo that no illicit liquor was recovered from the seized motorcycle. The motorcycle was seized by the police as it was found parked outside the house from where, the illicit liquor was recovered, as such, 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 an order for interim release of vehicle during pendency of trial on terms and



conditions, as usually imposed for release of seized vehicle.

The writ petition is disposed of with liberty to petitioner to file an application under Section 451 of Cr.P.C. for release of her vehicle before the Special Court, Excise who shall decide said petition within 30 days from the date of its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.11.2020
Transmission Date	NA

