

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9595 of 2020

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Bashisth Singh, S/o Madan Singh, aged about 50 years, male, R/o Vill-
Bhopatpur, P.O. Sisai, P.S. Bhorey, District- Gopalganj, Bihar and also r/o
Vill- Chapiya Baghel, P.O. Piprauttarpati, P.S. Khampar, District- Deoria,
Uttar Pradesh.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The District Magistrate, Gopalganj, Bihar.
4. The Superintendent of Police, Gopalganj, Bihar.
5. The Officer-in-Charge, P.S. Bhorey, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjya Kumar Chaubey, Adv.

For the Respondent/s : Mr. Kumar Manish, S.C. 5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 22-12-2020

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:-

- (i) “To issue a writ in the nature of
certiorari for quashing the order
dated 25.02.2020 passed by learned
Additional and District Session



Judge- II-cum-Special Judge Excise, Gopalganj passed in Bhorey P.S. Case No. 200/2019 (State Versus Arbind Prasad & Others) whereby and whereunder the learned Additional Judge pleased to refuse to release the impugned vehicle ie. Motorcycle with Registration No. UP 52AL-1633 on the ground that the local police has propose for confiscation of the impugned motorcycle.

(ii)To issue a writ in the nature of mandamus commanding the authorities to release the motorcycle with Registration No.- UP 52 AL 1633, Chassis No. MBLHA 11AZG9D10259. Engine No. HA11EKG9D10268.

(ii)To grant any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case.”

As there is allegation of recovery of illicit liquor from the seized motorcycle, as such, same is liable for confiscation under Section 56 of the Excise Act and in view of bar of jurisdiction in confiscation under Section 60 of the Act, no court had jurisdiction to pass any order with respect to articles seized under the excise act which are liable for confiscation by the District Collector/Confiscating Authority, as such, the Special Court (Excise) has rightly rejected the application filed by the petitioner for release of seized



motorcycle.

It has been stated on behalf of counsel for the State that confiscation proceeding was initiated by the District Collector, Gopalganj and final order dated 20.04.2020 has been passed by the Confiscating Authority, Gopalganj in confiscation case no. 317 of 2019, as such, present petition for interim release of vehicle has become infructuous.

The writ petition is disposed of with liberty to petitioner to avail the statutory remedy of appeal against the order passed by the Confiscating Authority and, if any, such appeal is filed within eight weeks by the petitioner before the appellate authority, the delay in filing appeal shall be condoned by the appellate authority who shall decide the appeal on merit within eight weeks from the date of filing of appeal.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

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

