

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Criminal Writ Jurisdiction Case No.3129 of 2018**

Arising Out of PS. Case No.-184 Year-2018 Thana- KATRA District- Muzaffarpur

Mamta Sinha Wife of Vijay Sinha @ Vijay Kumar Singh Resident of Village-
Dhauaur, P.S.- Katra, District- Muzaffarpur.

... .. Petitioner

Versus

1. The State Of Bihar Through Principal Secretary, Govt. Of Bihar, Patna
2. The District Magistrate, Muzaffarpur.
3. Senior Superintendent of Police, Muzaffarpur.
4. Superintendent of Excise, Muzaffarpur.
5. S.H.O. Katra, Police Station
6. Investigating officer of Katra P.S. Case No. 184/2018.

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Ravi Ranjan, Advocate
For the Respondent/s : Mr. Vikash Kumar SC 11

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 24-09-2020 Learned counsel for the petitioner has joined the proceeding. Mr. Vikas Kumar, learned SC 11 is present on behalf of the State.

The present writ application has been filed for the following reliefs:-

“1. That, this is an application for issuance of an appropriate writ/writs, order/orders direction/direction, to the respondents to release the Hero Plendor pro motorcycle bearing registration No. BR06AP4616 Chesis No, MBLHA 10BFEHM 78181 Engine No. HA10EREHK49579 and till date No notice has been served with regard to initiation of confiscation proceeding either upon the petitioner and her husband.”

Learned counsel for the State has informed this Court that there is already a Division Bench judgment of this Court in the case



of **Umesh Sah vs. State of Bihar and Ors.** reported in **2020 (4) BLJ 566** in which certain directions have been issued to the confiscating authority. It is, thus, his submission that while the Confiscating Authority (Respondent No. 2) may be directed to proceed to pass appropriate order in the light of the Judgment of Hon'ble Division Bench in the case of **Umesh Sah (supra)** the petitioner, if so advised, may also apply for his remedy before the confiscating authority. The operative part of the Judgment in **Umesh Sah (supra)** are extracted hereunder for a ready reference:-

“9. Without adjudicating the petitioner's petition on merits, we are of the considered view that interest of justice would be best met, if the petition is disposed of in the following terms:-

(a) Since the vehicle in question stands seized in relation to the FIR which stood registered long ago, in case confiscation proceeding has not been initiated, it must be initiated within a period of 15 days from today and that confiscation proceeding stands initiated, we direct the appropriate authority under the Act to forthwith ensure that such proceedings be concluded not later than 30 days.

(b) The petitioner undertakes to make himself available in the office of the concerned appropriate authority empowered under Section 58 of the Act i.e. District Collector, in his/her office on 04.02.2020 at 10:30 A.M.

(c) We further direct the appropriate authority to positively conclude the confiscation proceeding within next thirty days on appearance of the petitioner. If for whatever reason, such proceeding cannot be concluded, in that event it shall be open for the authority to take such measures, as are permissible in law, for release of the vehicle in question by way of interim measure, on such terms as may be deemed appropriate, considering the attending facts and circumstances of the case.

(d) If eventually, the appropriate authority arrives at



a conclusion that the property is not liable to be confiscated, it shall be open for the petitioner to seek damages in accordance with law and have appropriate proceedings initiated against the erring officials/officers.

10. Learned counsel for the petitioner states that the certified copy of the order shall be made available to the concerned District Collector on the date so fixed.

11. For future guidance, where parties have not approached this Court, we issue the following direction:-

12. The expression "reasonable delay" used in Section 58 of Chapter VI of the Act, in our considered view, necessarily has to be within a reasonable time and with dispatch, which period, in our considered view, three months time is sufficient enough for any authority to adjudicate any issue, more so, when we are dealing with confiscatory proceedings."

After hearing learned counsel for the petitioner as well as learned counsel for the State, this writ application is being disposed of with a direction to the Confiscating Authority (Respondent No. 2) to pass an appropriate order in the light of the judgment of the Hon'ble Division Bench of this Court in the Case of **Umesh Sah** (*supra*). Petitioner is also at liberty to file an appropriate application before Respondent No. 2 for the reliefs prayed in this application. The petitioner may appear in person or through her learned Advocate before Respondent no.2 on or before 15.11.2020 during working days.

This application stands disposed of.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

