

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14398 of 2019

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Kaushal Kumar son of Kadri Prasad Resident of Village- Jamunichak, P.S.
Barh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise, Patna.
2. The District Magistrate, Patna.
3. The Officer-in- Charge, Barh Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manoj Kumar Pandey
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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

Date : 01-07-2020

Heard learned counsel for the petitioner and learned
counsel for the respondents.

Petitioner has prayed for the following relief:-

“For issuance of writ in the nature of mandamus
commanding and directing the respondents authority to
release the vehicle of the petitioner bearing Registration
No. BR01DT-2532 Pulsar Motorcycle 150 having Chassis
No. MD2A11CYXJRL31667 Engine No. DHYRJL04427
which was seized by the Sub-Inspector of Barh Police
Station in connection with Barh P.S. Case No. 216/2019
registered under Sections 30(a), 38, 41 of the Bihar
Prohibition & Excise Act.”



FIR was instituted under Section 30(a), 38 and 41 of the Bihar Prohibition & Excise Act, 2016, against the accused persons as named in FIR giving rise to Barh P.S. Case No. 216/2019.

It is submitted that petitioner is neither named in the FIR nor he is an accused in this case. The Motorcycle of petitioner was seized at the place of occurrence in an abandoned condition and no illicit liquor has been recovered from the Motorcycle.

Petitioner claims to be owner of the vehicle and there is no allegation of recovery of any illicit liquor from the vehicle as such, the vehicle is not liable for confiscation.

It has been submitted by learned counsel for the State that in case of no recovery of any illicit liquor from the vehicle, the vehicle is not liable for confiscation and same has been decided by the Excise Commissioner, Bihar, Patna, in appeal of confiscation being Case No. 107 of 2019 (arising out of Tariyani P.S. Case No. 184 of 2018) titled as (Ajit Rai & Ors Vs. The Collector, Sheohar).

As the seized vehicle is not liable for confiscation, bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and the Special Court (Excise) can exercise



jurisdiction under Section 451 of Cr.P.C for release of the vehicle during pendency of criminal trial.

It has been submitted on behalf of petitioner that no confiscation proceeding has been initiated. However, even if, any confiscation proceeding has been initiated, same is to be dropped by the confiscating officer, in view of decision of appellate authority as referred above.

The writ petition is disposed of with liberty to petitioner to file a petition under Section 451 of Cr.P.C for release of vehicle before the Special Court (Excise), Patna, where the trial of case arising out of Barh P.S. Case No. 216 of 2019, is pending and the Special Court is directed to dispose of such petition within 30 days from the date of filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

