

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9251 of 2020

Govind Kumar Chaudhary @ Govind Kumar, S/o Lalan Chaudhary, Resident of Village- Gurua Tola Bhuyan Bigha, P.S.- Gurua, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration Excise and Prohibition Department of Bihar, Patna.
2. The District Magistrate Gaya.
3. The Superintendent of Excise Gaya.
4. The S.H.O., Gurua P.S. Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vinod Kumar, Adv.
For the Respondent/s : Mr. Vivek Prasad, G.P. 7

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

Date : 18-12-2020

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 relief:-

“For release of the
Glamour Motorcycle bearing No. BR
02AM 5793 to the petitioner which
was seized by the police in Gaya



Excise Case No. 91/20 instituted under Section 30(c) of Bihar Prohibition and Excise (Amendment) Act 2018 and section 2(e), 3, 5 (b), 13 of Mahua Flower Act, 2006.

(ii) For a direction to the respondent authority to release the motorcycle of the petitioner taking into consideration that in fact nothing has been recovered from the vehicle in question.”

As allegation is of carrying 40 Kg of Mahua flower on the seized motorcycle and Division Bench of this Court has held that Mahua Flower in its raw form will not come under the definition of intoxicant as defined under the excise act, unless surrounding circumstances indicate that it was being carried for preparation of country made liquor.

Accordingly, the District Magistrate, Gaya is directed to provisionally release the seized motorcycle in favour of petitioner who claims to be the owner of the motorcycle on his due identification and production of registration certificate and ownership documents with respect to seized motorcycle on



usual terms and conditions as are imposed for release of such vehicles during confiscation proceeding.

With aforesaid observation and direction, the writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

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

