

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14409 of 2019

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Sanjay Kumar Son of Rupan Saw Resident of Village/Muhalla- Dev Soti,
Police Station- Deo, District- Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Excise Department, Bihar, Patna.
2. The District Magistrate Aurangabad.
3. The Senior Superintendent of Police Aurangabad.
4. The Excise Officer District- Aurangabad.
5. The Officer Incharge Deo, Police Station, Distt.- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjit Kumar
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 MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 12-08-2020

Petitioner has prayed for following relief:-

“This application is being filed for issuance of an appropriate writ/ writs/direction(s) to the respondents for release of vehicle of the petitioner which is Discover motorcycle bearing registration No.BR26G7412 Chasis No.MD2A57AZ6ERL71088 and Engine No.PAZREL 76935 in his favour, which has been seized in connection with Deo P.S. Case No.44/016 on 10.9.2016 Kanhai More P.S. Deo in the district of Aurangabad instituted for the offences punishable under Section



47/54 of Bihar Excise Amendment Act and for which neither the confiscation proceeding has been initiated against the said vehicles by the court of learned the District Magistrate, Aurangabad, nor any notice in this connection has been issued and served to the petitioner till date.

And / or for any other appropriate relief(s) to the petitioner for which he may be found entitled to in the eye of law.

It is submitted on behalf of State that proceeding to confiscate the vehicle was initiated by the District Magistrate and final confiscation order dated 15.10.2016 has been passed by the District Magistrate, Aurangabad confiscating the vehicle as such present petition for interim release of vehicle has become infructuous.

It is submitted on behalf of petitioner that no notice with respect to initiation of confiscation proceeding was served upon petitioner as such he could not appear before the District Magistrate, Aurangabad in confiscation proceeding, and order was passed *ex parte*.

The writ petition is disposed of with liberty to petitioner to file a petition before the District Magistrate, Aurangabad for recall of *ex parte* order and the District Magistrate, Aurangabad shall examine the record and if it is found that the confiscation proceeding was



decided *ex parte* without proper service of notice upon the petitioner, he shall recall the ex parte order and shall pass a fresh order in accordance with law after hearing both the parties.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.08.2020
Transmission Date	NA

