

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18077 of 2019

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Bimlesh Kumar Son of Sagedu Bind Resident of Village-Baijnath, P.S.-
Ramgarh, District-Kaimur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Bihar, Patna
2. The District Magistrate, Kaimur, Bhabhua
3. The Superintendent of Police, District-Kaimur at Bhabhua
4. The Inspector Excise, Mohania Region, Kaimur
5. The Officer-in-charge Durgawati P.S., P.S.-Durgawati, District-Kaimur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar Singh, Advocate
For the Respondent/s : Mr.Vivek Prasad ,GP-7

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

3 28-01-2020 Heard Mr. Arun Kumar Singh, learned counsel for
the petitioner and Mr. Vivek Prasad, learned GP-7 for the
respondent-State.

The present writ application has been filed for release
of C.B. Shine Honda Motorcycle bearing Registration No.
BR45J7768, in favour of petitioner which has been seized in
Excise Prosecution Report No. 5/2019-20 registered for the
offence punishable under Section 30(a) of Bihar Prohibition



and Excise Act, 2016, as amended by the Amendment Act 8 of 2018 (hereinafter referred to as 'the Act').

The relief, as prayed for by the petitioner as stipulated in paragraph no.1 of the writ application reads as follows :-

“That the petitioner craves indulgence of this Hon'ble Court for issuance of an appropriate Writ in the nature of Mandamus, commanding the respondents to release the C.B. Shine Honda Motorcycle of the petitioner bearing Registration No. BR45J7768, Engine No. J065ET2118747, Chassis No. ME4JC65AEJT075739, which has been seized in P.R. No. 5/2019-20 Under Section 30(a) of Bihar Prohibition and Excise Act.”

The prosecution case got initiated with filing of the prosecution case by Shatrunjay Kumar, Inspector, Prohibition and Excise, Mohania Region, Kaimur is to the effect that from motorcycle in question 21.600 litres of Indian Made Foreign Liquor were recovered.

It is submitted by learned counsel for the petitioner that the petitioner claims to be the registered owner of the vehicle in question. The copy of the registration certificate of



the vehicle in question has been brought on record as Annexure-2.

Learned counsel for the State-respondents while relying upon the counter affidavit filed on behalf of respondent nos. 2 and 4, the District Magistrate, Kaimur, Bhabua and the Inspector, Excise, Mohania Region, Kaimur submits that Confiscation (Excise) Case No. 169 of 2019 has already been initiated and notices have been issued to the petitioner.

Considering the fact that the confiscation proceeding has already been initiated, we are not inclined to interfere at this state in view of the ratio laid down in the case of **Baleshwar Roy Vs. The State of Bihar & Ors., reported in 2018(4) PLJR 970**. However, it is expected from Respondent No. 2, the District Magistrate, Kaimur, Bhabua to conclude the confiscation proceeding meticulously following the provisions of the Act within a period of six weeks from the date of receipt/production of a copy of this order in accordance with law after giving due opportunity of hearing to all affected persons.

The petitioner is also expected to appear regularly and cooperate in the confiscation proceeding.



Accordingly, with the above observation and
direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

DKS/-

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