

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17175 of 2019

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Ajay Sao @ Ajay Saw, Son of Late Munder Sao, Resident of Village- Simra, Police Station - Parsa Bazar, District Patna. At present residing at Village Simara, Post Office and Police Station- Parsa, Block- Phulwari Sharif, Distirct- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise Department, New Secretariat, Patna.
2. The Principal Secretary Excise Department, Government of Bihar New Secretariat, Patna.
3. The District Magistrate, Patna.
4. The Superintendent of Police, Patna.
5. The Officer-in-Charge, Paliganj Police Station, District- Patna.
6. The Investigation Officer of Paliganj P.S. Case No. 16/19 dated 11.01.2019, P.S. Paliganj, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeet 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)

Date : 06-07-2020

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 State.

This writ petition has been filed for release of Pick-up Delivery Van, Tata Motors Ltd. bearing registration no. BR01GA-7647, Engine No. 497SP28AZY603310, Chasis No. MAT478011A9A9A02872 which has been seized in connection with Paliganj P.S. Case No. 16 of 2019, Special Case No. 462 of 2019 registered for the offence punishable U/s 272/273 of Indian Penal Code and Sections 2(E)/3/5/18 of Bihar Excise (Mahua Flower) Rules, 2006 and Section 3(a)(C)(D) of the Bihar Prohibition & Excise Act, 2016.

Allegation is keeping illegal stock of mahua flower which was used for preparing country made liquor from the vehicle of petitioner, on basis of which Paliganj P.S. Case No. 16 of 2019, Special Case No. 462 of 2019 was instituted for offences under Excise Act and the mahua flower as well as vehicle were seized.

Division Bench of this court in its judgment dated 09.07.2019 passed in C.W.J.C. No. 23163 of 2018 (Umesh Kumar @ Umesh Mahto Vs. State of Bihar and other analogous cases) with respect to seizure of mahua flower under Excise Act, 2016 has held as follows :



“In result, we hold that the confiscation proceedings, if any, initiated against the petitioners for alleged violation of Section 3 of the Mahua Flowers Rules’ read alongside the provisions of ‘the Act’ for possession of Mahua Flowers exceeding 5 kgs., is without sanction of law and consequentially the confiscation proceeding, if any, initiated against the petitioners shall stand quashed and the vehicles seized, if not already released, shall be released in favour of the owner on production of ownership papers.”

It has been stated that no confiscation proceeding has been initiated and even if any confiscation proceeding has been initiated, same is directed to be dropped.

Accordingly, the writ petition is disposed of with a direction to the petitioner to file a petition in the court of Special Judge, (Excise), Patna in Paliganj P.S. Case No. 16 of 2019, Special Case No. 462 of 2019 for release of the vehicle as bar of jurisdiction in confiscation under section 60 of the Act is not applicable and Special Court (Excise) has jurisdiction to release the vehicle and upon such petition being filed the Special Court (Excise), Patna is directed to provisionally release the vehicle in favour of its registered owner on due identification and production of ownership documents on usual



terms and conditions as imposed for release of vehicle within 30 days from the date of filing of such petition.

The writ petition is allowed.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

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

