

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18123 of 2019

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Hemant Kumar, Son of Vijay Kumar Yadav, Resident of Village - Baghmara,
Police Station - K. Nagar, District Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Govt. of Bihar.
2. The Divisional Commissioner, Excise Department, Govt. of Bihar.
3. The District Magistrate, Purnia.
4. The Superintendent of Police, Purnia.
5. The Officer-in-Charge Sadar, Police Station - Sadar, District- Purnia.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikram Singh
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)

2 06-01-2020 Heard Mr. Vikram Singh, learned counsel for the

petitioner and Mr. Vivek Prasad, learned G.P.-7 for the

respondent-State.

The present writ application has been filed for release
of the C.B.Z. Extreme motorcycle of the petitioner, bearing
Registration No. BR11W6777, which has been seized in
connection with Purnea Sadar P.S. Case No. 337 of 2016,
registered for the offences punishable under Sections 272 and
273 of the IPC and Section 47(a) of the Bihar Prohibition and
Excise Act, 2016, as amended by Amendment Act 8 of 2018



(hereinafter referred to as 'the Act'). The relief(s), as stipulated in paragraph no.1 of the writ application, read(s) as follows:-

“1. That it is humbly stated that the petitioner seeks the following relief in the instant writ application.

(i) For issuance of appropriate writ/order/direction commanding the Respondents to forthwith release the vehicle (Motorcycle) of the petitioner bearing registration no. -BR11W-6777, Chasis No. MBLKC12EMF-GD00247, Engine No. KC12EFFGD00374 in favour of the petitioner, who is the owner of the said vehicle seized in Sadar P.S. Case No. 337/16 under Section 272/273 of Indian Penal Code and 47(a) of the Excise Act, 2016 read herein after as “Excise Act” which has been directed to be confiscated by order dated 19.05.17 in Excise Case No. 273/16 without giving opportunity of hearing well as without any notice to the petitioner.

(ii) For issuance of appropriate Writ/order/direction commanding the respondents to release the vehicle of the petitioner during the pendency of the instant writ application on reasonable surety till the disposal of instant writ application by this Hon'ble High Court.

(iii) For issuance of appropriate writ/order/direction commanding the Respondents to make proper arrangement for the safe custody of the said vehicle which is kept in open sky in police station premises.

(iv) Alternatively for issuance of appropriate writ/order/direction if the aforesaid reliefs do not found



favour by the Lordship commanding the Respondents to release the vehicle of the petitioner during the pendency of confiscation proceeding till its final conclusion before the respondents.

(v) Any order relief or reliefs as your Lordship deems fit in the fact and circumstances of the case.”

It is very fairly conceded by learned counsel for the petitioner that since the final order in Confiscation Case No. 273 of 2016 has been passed by the Collector, Purnea vide, order dated 19.05.2017, as contained in Annexure-4 of the writ application, whereby the vehicle in question has already been confiscated and the Superintendent Excise, Purnea has been directed to get the physical verification of the vehicle in question done by the Motor Vehicle Inspector, Purnea and thereby put the same on auction sale, hence he seeks permission to withdraw the present writ application with liberty to prefer an appeal before the appropriate authority.

Permission is accorded.

Accordingly, the present writ application is disposed of as withdrawn with liberty to the petitioner to prefer an appeal against the impugned order before the appropriate authority within a period of four weeks from the date of receipt/production of a copy of this order along with an application for condonation of delay, which will be considered



by the appellate authority keeping in view of the fact that the writ application was pending before this Court. It is expected from the appellant authority to dispose of the appeal, if any, filed by the petitioner within a period of eight weeks from its filing after giving due opportunity of hearing to all affected persons in accordance with law.

It is made clear that if the vehicle in question has not been auction sold, it will not be put on auction sale till disposal of the appeal, if so filed.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

Amrendra/-

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