

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22720 of 2019

=====

Sher Singh Son of Guru Charan @ Ghur Charan Singh Resident of Village
Purana Vishan Nagar, P.O. and P.S.- Urban State, District- Patiyala (Punjab)
Through power of Attorney Holder Surendra Kumar, aged about 57 years,
male, son of Mulak Raj, Resident of 24, St. No. 20, Guru Nanak Nagar,
Patiala (Punjab).

... .. Petitioner/s

Versus

1. The State of Bihar through the Excise Commissioner, New Secretariat,
Patna.
2. D.M. Gaya Gaya.
3. The Superintendent of Gaya Gaya.
4. The Officer incharge Barachati Gaya.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Archana Sinha @ Archana Shahi
For the Respondent/s : Mr.Vikash Kumar (Sc11)

=====

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
Truck No. D.C.M. bearing registration no. PB13S9153, Engine
No. E483CD7C177219, Chasis No. 33HC7L022881 which has



been seized in connection with Barachati P.S. Case No. 336 of 2019 registered for the offence punishable under Section 30(d), of Excise Act, 2016.

Allegation is recovery of 200 Kg of mahua flower from the vehicle of petitioner, on basis of which Barachati P.S. Case No. 336 of 2019 was instituted and the mahua flower as well as vehicle were seized.

In view of Division Bench of this court in CWJC No. 23163 of 2018 (Umesh Kumar @ Umesh Mahto Vs. State of Bihar and other analogous cases) in its judgement dated 09.07.2019 have 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.”

Counter affidavit has been filed in which it has been stated that Excise Confiscation No. 395 of 2019 has been initiated against the vehicle.



Accordingly, whole proceeding arising out of Excise Confiscation Case No. 395 of 2019 initiated against petitioner/vehicle as well as any final order passed in said proceeding is quashed and vehicle is directed to be released in favour of petitioner after due identification and production of ownership documents of vehicle within 15 days from the date of production of a copy of order passed by this Court.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

