

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23156 of 2019

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1. Abhay Shankar Singh, Son of Late Bhim Shankar Singh, Resident of Village- Bargaon, Police Station- Bagaha, District- West Champaran.
 2. Sanoj Chaudhari, Son of Bipat Chaudhari, Resident of Village- Bargaon, Police Station- Bagaha, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate, Bettiah, West Champaran.
3. The Superintendent of Police, Bagaha, West Champaran.
4. The Officer in Charge, Bagaha Police Station, District- West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar No 7
For the Respondent/s	:	Mr. Kumar Manish (Sc5)

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 : 07-07-2020

Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner has prayed for following reliefs:-

- (i) To direct the respondent authorities to release the Bajaj Platina



Motorcycle bearing Registration No.BR22F8982, Engine No.JNUBSM08993, Chassis No.MBLGAP825HGE114 in favour of petitioner No.1 and Hero Glamour Black Red Colour motorcycle bearing Registration No.BR22AA3940, Chassis No.MBLJAR025HGE11438, Engine No.JA06ERHGE45455 in favour of petitioner No.2.”

- (ii) To grant any other relief/reliefs for which the petitioners are found entitled in the facts and circumstances of the case.”

It has been submitted on behalf counsel for the petitioner that from FIR as well as seizure memo, it is apparent that no illicit liquor was recovered from two seized motorcycles as such, motorcycles are not liable for confiscation under Section 56 of the Bihar Prohibition and Excise Act, 2016.

It is submitted by the petitioner that no confiscation case has been initiated against the seized motorcycles which belong to petitioner and he has not received any such notice. In view of several judgments passed by this Court as well as order passed by the Excise Commissioner in Appeal being Confiscation case No.107 of 2019 (Ajit Rai and others versus Collector, Shivwhar) as no illicit liquor has been recovered from the seized motorcycles, same are not liable for confiscation and as such bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and concerned Special Court (Excise) can exercise its jurisdiction under Section 451 of Cr.PC for release of the motorcycles during pendency of



criminal trial.

Counter affidavit has been filed by the respondents in which it has been stated that illicit liquor was recovered from the house of accused Ravi Bhushan Tiwary and two motorcycles were also parked. A proposal for confiscation of the vehicles was sent under letter no.1363 dated 10.12.2019 to the District Magistrate, West Champaran, Bettiah.

In view of several judgments passed by this Court on basis of which the Excise Commissioner has held, as stated above, if no illicit liquor has been recovered from the vehicle, same is not liable for confiscation as such, no confiscation proceeding can be initiated against these vehicles and if any, has been initiated, same is directed to be dropped.

The writ petition is disposed of with liberty to petitioner to file a petition under Section 451 of Cr.pc. for release of motorcycles before the concerned Special Court (Excise) and the motorcycles shall be provisionally released in favour of petitioner after due identification and upon producing the ownership documents and registration certificate upon terms and conditions as usually imposed by the trial court while provisionally releasing the vehicle during pendency of trial within 30 days from the date of filing of such petition by the



petitioner along with a copy of order passed by this Court.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2020
Transmission Date	NA

