

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23914 of 2019

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Mukesh Kumar Mahto Son of Sri Ram Mahto Resident of Village- Nizampur,
Police Station- M.H. Nagar, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate, Siwan.
4. The Superintendent of Police, Siwan.
5. The S.H.O., Mairwa Police Station, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Raghav Prasad
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 THE CHIEF JUSTICE)

Date : 03-07-2020

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

Petitioner has prayed for the following relief:-

“That this writ application is being filed for issuance
of an appropriate writ/writs, order/orders and direction to the
Respondent Authority to release Motorcycle T.V.S. Apache
RTR 160 ABSDISC Pearl white, Registration No. BR-29AJ-
9911, Engine No. CE4GK 2221031 and Chasis No.
MD634CE40K2G 22423 in favour of petitioner/owner, which
has been seized in Mairwa Police Station Case No. 253 of



2019 under Section 30(a), 38(i), (I) of Bihar Prohibition and Excise Act.”

It has been submitted by learned counsel for the petitioner that no illicit liquor was recovered from the vehicle in question.

It has been submitted by learned counsel for the State that in case of no recovery of any illicit liquor from the vehicle, the vehicle is not liable for confiscation and same has been decided by the Excise Commissioner, Bihar, Patna, in appeal of confiscation being Case No. 107 of 2019 (arising out of Tariyani P.S. Case No. 184 of 2018) titled as Ajit Rai & Ors Vs. The Collector, Sheohar.

Accordingly, petitioner is directed to file an application before the concerned Special Court (Excise), under Section 451 of Cr.P.C for interim release of the vehicle which has been seized by the police in the case as same is not liable for confiscation and bar of jurisdiction in confiscation under Section 60 of the Excise Act, 2016 will not be applicable and as such it is the Special Court (Excise), which can pass an order for release of the vehicle, with terms and conditions of release as usually imposed. If any such application is filed by the petitioner same to be disposed of within **30** days from the date of filing of said application.



With the aforesaid observation and direction, this writ
petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

