

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.279 of 2020

Indrajeet Kumar, Son of Sonelal Mandal, Residence of Village- Sonebarsa,
Ward No. - 01, Police Station- bathnaha, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise Prohibition Department, Government of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Collector-cum- District Magistrate, Sitamarhi.
4. The Superintendent of Excise, Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Pushpendra Kumar Singh, Advocate
For the Respondent/s	:	Mr.Kumar Manish, SC-5
		Mr. Prashant Kumar, AC to SC-5

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

and

HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

3 03-02-2020 Heard Mr. Pushpendra Kumar Singh, learned
counsel for the petitioner and Mr. Prashant Kumar, learned AC
to GP-7 for the respondent-State.

The present writ application has been filed for release
of Hero Passion Pro motorcycle bearing Registration No. BR
30F-5057, in favour of petitioner which has been seized in
Excise Complaint Case No. C2-622 of 2019 registered for the
offence punishable under Section 30(a) of Bihar Prohibition
and Excise Act, 2016, as amended by the Amendment Act 8 of
2018 (hereinafter referred to as 'the Act').



The relief, as prayed for by the petitioner as stipulated in paragraph no.1 of the writ application reads as follows :-

“That, the petitioner prays for the following relief through the present writ application.

(i) To issue an appropriate writ (s)/ order(s)/direction(s) in the nature of a writ Mandamus, directing the respondent Collector to release the vehicle namely HERO PASSION PRO Motor-Cycle bearing Registration Number BR 30F-5057, Chassis No. MBLHA10EWCGB52465, Engine No. HA10EDCGB58872, which has been seized in the Excise Complaint Case No. C2-622 of 2019 dated 24.09.2019 instituted for the offences under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2016.

(ii) To grant any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

The prosecution case is that Deputy Commandant of SSB intercepted one person with motorcycle and seized 34.800 litres of Nepali liquor, leading to filing of the prosecution report.

It is submitted by learned counsel for the petitioner that the petitioner is the registered owner of the vehicle in question. The copy of the registration certificate of the vehicle



in question has been brought on record, as Annexure-2. The vehicle in question is rotting under open sky and there is no likelihood of trial being concluded in near future. The petitioner is ready to produce the vehicle in question as and when required and a statement has been made in paragraph 11 of the writ application that the confiscation proceeding has not been initiated.

However, counter affidavit filed on behalf of respondent nos. 3 and 4, the Collector -cum- District Magistrate, Sitamarhi and Superintendent of Excise, Sitamarhi respectively reflect that Excise Superintendent, Sitamarhi has submitted a report under Section 58(1) of the Act for initiating confiscation proceeding vide letter No. 1138 dated 27.09.2019 and consequently, Confiscation Case No. 811 of 2019 has been initiated and notice has been issued to the petitioner on 31.12.2019, as contained in Annexure-A to the counter affidavit, but the petitioner has not appeared.

Considering the rival submissions of the parties, in view of the ratio laid down by the **Full Bench in the case of Baleshwar Ray Vs. The State of Bihar and others, reported in 2018(4) PLJR 970** to the effect that once confiscation proceeding has been initiated, the court should not interfere



except exceptional or monstrous condition, we are not inclined to interfere since the confiscation proceeding has been initiated in 2019 and the present writ application has been registered on 07.01.2020, though, we have noticed that the report has not been submitted under Section 58(1) of the Act by the seizing or detaining authority. We leave to the District Magistrate, Sitamarhi to decide this as preliminary issue while deciding the confiscation proceeding. However, it is expected from Respondent No. 3, the Collector-cum-District Magistrate, Sitamarhi to conclude the proceeding of Confiscation Case No. 811/2019, arising out of Excise Complaint Case No. C2-622 of 2019 within a period of six weeks from the date of receipt/production of a copy of this order in accordance with the provisions of the Act.

The petitioner is also expected to appear regularly and participate in the confiscation proceeding.

Accordingly, with the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

DKS/-

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