

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24816 of 2019

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Sanjit Kumar Son of Kapilde Mandal Resident of Village- Nardah, Police Station- Puraini, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through Excise Commissioner, Patna.
2. The Collector-cum-District Magistrate, Madhepura.
3. The Superintendent of Police, Madhepura.
4. The Excise Superintendent, Madhepura.
5. Station House Officer, Udakishunganj Police Station, District- Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Uday Chand Prasad
For the Respondent/s : Mr.Vikash Kumar (SC 11)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

Date : 06-01-2020

Heard Mr. Uday Chand Prasad, learned counsel for the petitioner and Mr. Vikash Kumar, learned SC 11 for the respondents.

Though the present writ application has been filed for quashing the final order dated 18.9.2019 passed by the Collector-cum- District Magistrate, Madhepura in Excise Confiscation Case No. 62 of 2019 and consequential release of the Hero Honda Glamour motorcycle bearing Registration no. BR 11 AK 2168, seized in connection with Udakishunganj P.S. Case No.83 of 2019, registered for the offences punishable



under Section 30(a) of Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018 (hereinafter referred to as the Act). Further prayer has been made for not putting the motorcycle in question to auction sale but after some arguments, learned counsel for the petitioner prays for disposal of the writ application with liberty to the petitioner to file appeal against the final order passed in confiscation case.

The relief claimed by the petitioner in paragraph 1 of the writ petition reads as follows:

“(i) For issuance of writ in the nature of certiorari for quashing of order dated 18.09.2019 passed by Learned Collector-cum-District Magistrate, Madhepura in Excise Confiscation Case No. 62 of 2019 whereby petitioner motorcycle Hero Honda Glamour bearing Registration No.BR11AK2168 Chassis No. MBLJAS023J9G03829, Engine No.JA06EH-J9G19749 has been confiscated due to recovery of 1 litre Mahua wine.

(ii) For issuance of writ in the nature of Mandamus direction to Respondents to release petitioner's Motorcycle Hero Honda Glamour bearing Registration No.BR11AK2168 Chassis No. MBLJAS023J9G03829, Engine No.JA06EH-J9G19749 in favour of petitioner which was seized due to recovery of 1 litre Mahua wine for which First Information Report bearing Udakishunganj



Police Station Case No. 83 of 2019 dated 12.03.2019 was instituted under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

(iii) For issuance of writ in the nature of Mandamus direction to Respondents to not take any step for auction of petitioner's motorcycle in pursuant to confiscation order dated 18.09.2019 passed in Excise Confiscation Case No. 62 of 2019.”

Learned counsel for the petitioner submits that the petitioner claims to be the owner of the vehicle in question and has sought for release of the same since the impugned order passed in confiscation proceeding is *de hors* the provisions of the Act.

Learned counsel for the respondents submits that since there is provision of appeal before the Excise Commissioner by virtue of Section 92(2) of Chapter IX of the Act against the order passed by the Collector within ninety days of the order complained of, he has no objection if the writ application is disposed of with the aforesaid liberty to the petitioner.

Accordingly, this writ application is disposed of with liberty to the petitioner to prefer appeal within a period of four weeks along with an application for condonation of delay. If



such appeal is filed by the petitioner, the appellate authority is expected to consider application for condonation of delay in view of the fact that the writ application of the petitioner was pending before this Court and dispose of the appeal within a period of ten weeks from the date of its filing, after giving due opportunity of hearing to all affected persons.

Needless to say, in case the motorcycle in question has not been auction sold till date, then it will not be put on auction sale till the disposal of appeal by the appellate authority, if so filed.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

anil/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

