

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7190 of 2021

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Sabir Ansari S/o Anavar Ansari R/o village-Rajpur, PS-Rajpur, District-Buxar,
at present R/o Karahagar, PS-Karahagar, District-Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Bihar Patna
2. The Director General of Police Bihar, Patna
3. The District Magistrate cum Collector Kaimur at Bhabua
4. The Senior Superintendent of Police Kaimur at Bhabua
5. Station Head Officer of Police Station Ramgarh Kaimur at Bhabua

... .. Respondent/s

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(The proceedings of the Court are being conducted through Video Conferencing and
the Advocates joined the proceedings through Video Conferencing from their
residence.)

Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan, Adv
For the Respondent/s : Mr. Vikash Kumar SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 22-06-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“That the present writ application is being filed
with a prayer to issuance of an appropriate writ in the
nature of certiorari or any appropriate writ and order and
direction and to set aside the order dated 14.10.2020
passed in Excise Case No. 866 of 2019 by the Addl.
Session Judge-5th cum Special Judge, Excise, Kaimur at
Bhabhua and further to direct the respondent authorities to
release the Hero Honda Passion Pro motorcycle in red
colour, bearing registration no. BR-24J-1093, CHASIS
NO. MBLHA10ANAGF44423, ENGINE NO.
HA10EDAGF38144, in favour of petitioner, which has
been seized in connection Ramgarh PS Case No. 287 of



2019 corresponding Excise Case No. 866 of 2019, pending in the court of ADJ-5rd cum Special Judge (Excise), Kaimur at Bhabhua, instituted under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

It has been submitted by learned counsel for the petitioner that no illicit liquor has been recovered from the motorcycle, as such bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and Special Court (Excise) where the Excise case is pending has jurisdiction to pass order for release of the vehicle.

It has been further submitted by learned counsel for the petitioner that petitioner has filed application before the learned Additional Sessions Judge-5th-cum-Special Judge (Excise), Kaimur at Bhabhua, for release of seized motorcycle bearing registration no. BR 24J 1093, but the Special Judge (Excise), vide order dated 14.10.2020 rejected the prayer of the petitioner on the ground that Special Court (Excise) has no jurisdiction to pass any order in view of bar of jurisdiction in confiscation under Section 60 of the Excise Act as well as investigating officer on the basis of a letter issued by Office of DTO, has stated that no record of aforesaid vehicle has been found on the official website of the department. However, it is submitted that petitioner is the registered owner of the vehicle and same can be



verified from the Office of DTO, Rohtas at Sasaram and till date no confiscation proceeding has been initiated by the Collector of the concerned district, and as stated above since no illicit liquor has been recovered from the motorcycle, as such, same is not liable for confiscation under Section 58 of the Excise Act.

For the reasons as stated above, the order dated 14.10.2020 passed by learned Additional Sessions Judge-5th-cum-Special Judge (Excise), Kaimur at Bhabhua is set aside and Special Court (Excise) is directed to provisionally release the vehicle in question in favour of petitioner after due identification of ownership of the vehicle seized by the police in excise case on production of ownership and registration papers with respect to vehicle in question in his name with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

(i) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the trial and shall not alienate the vehicle during this period.

(ii) The petitioner shall furnish an undertaking to produce the vehicle before the trial court as and when required.



(iii)Prior to release of the vehicle, a Panchanama would be prepared wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama.

The release shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above, which would however be subject to finalization of the trial.

With said observations and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.06.2021
Transmission Date	NA

