

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10132 of 2021

Vinod Kumar @ Binod Mahto, Son of Bhagwat Mahto, resident of Village -
Purani Chowk (Koyri Tola) Sikandra, P.S. - Sikandara, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Excise Department
Government of Bihar Old Secretariat, Patna.
2. The District Magistrate cum Collector, Jamui.
3. The Superintendent of Police, Jamui, Bihar.
4. The Superintendent of Excise, Jamui, Bihar.
5. The Circle Officer, Sikandra, District- Jamui.
6. The Officer - In- Charge of Sikandra P.S., District- Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Umesh Prasad, Advocate
For the Respondent/s : Mr.Kumar Manish (SC-5)

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 : 06-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“That this is an application for issuance of writ(s)/order(s) and direction(s) to the respondents to release the Hero Splendor motorcycle to the petitioner vide Registration No. BR46C7537, Chassis No. MBLHA10A3DHL10038, Engine No. HA10ELDIK21572 in connection with Sikandra P.S Case No. 348 of 2019 for offence under sections 25(1-B)a,26 and 35 Arms Act and 37(C) of Bihar Prohibition and Excise Act, the alleged motorcycle is seized by respondent no.6 pending in the Court of A.D.J.-II-cum-special Judge Excise, Jamui.”

It is submitted that no illicit liquor was recovered
from the vehicle, as such seized vehicle is not liable for



confiscation. Allegation against driver of the seized vehicle is to be found in a drunken condition and petitioner is the owner of the seized motorcycle.

It has been further submitted that seized vehicle is not liable for confiscation under Section 56 of the Excise Act, as such, bar of jurisdiction in confiscation under section 60 of the Excise is not applicable and the special court excise has jurisdiction to pass order for release of seized vehicle during pendency of trial.

Petitioner would be at liberty to file a petition before the special court excise under section 451 of Cr.P.C. and if any such petition is filed for release of vehicle the special court excise shall dispose of such petition within 30 days from the date of its filing.

Petition stands disposed of with the aforesaid observations/directions.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

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

