

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10065 of 2020

=====

Sima Devi Wife of Vijay Kumar @ Vijay Yadav Resident of Village- Bhandar,
Post- Sangrampur, P.S.- District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
3. The Collector-cum-District Magistrate, Lakhisarai.
4. The Superintendent of Police, Lakhisarai.
5. The Excise Officer, Block- Lakhisarai, District- Lakhisarai.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rabi Bhushan, Advocate
For the Respondent/s : Mr. Kumar Manish, SC-5

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-01-2021

Heard learned counsel for the parties.

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

"I. For issuance of writ in the nature of Mandamus to direct the respondents to release the vehicle i.e. Hero Splender + Motor Cycle bearing Registration No. BR46D-3053, Chassis No. MBLHA10CGGHC58887, Engine No. HA10ERGHC56463 of the petitioner which was seized in connection with Excise Case No. 190 C2 of 2019 registered Under Sections 30(c), 2[40(vi)] and 13 of the Bihar Prohibition and Excise Act 2018 and Section 2(e), 3, 5 (B) and 18 of Bihar Excise Mahua Flower Rule, 2006"

II. For direction to the respondents to release the vehicle i.e. Hero Passion Pro Motor Cycle bearing Registration No. BR46D-3053, Chassis No. MBLHA10CGGHC58887, Engine No. HA10ERGHC56463



as she is the registered owner of the said vehicle."

III. For any other relief or reliefs for which the petitioner is entitled in the facts and circumstances of the case."

Petitioner has filed this case for release of his vehicle which was seized by the police carrying 120 Kgs of Mahua Flower.

In view of judgment and order dated 09.07.2019 passed by a Division Bench of this Court in CWJC No. 23163 of 2018 (Umesh Kumar @ Umesh Mahato Vs State of Bihar and its analogous cases), recovery of mahua flower in its raw form itself does not constitute any offence under Bihar Prohibition & Excise Act, 2016, as mahua flower does not come within the definition of intoxicant defined under section 2(40) of the Act unless it is converted into spirit or spiced spirit or is in process of such conversion.

The writ petition is disposed of with a direction to the petitioner to appear before the District Collector/Confiscating Officer, Lakhisarai, on 18.02.2021 and District Magistrate, Lakhisarai shall provisionally release the vehicle of petitioner after due identification of ownership of the vehicle and on production of ownership and registration documents 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 release shall be allowed within a period of 14 days from the date of submission of the sureties as stated above, which would however be subject to finalization of the confiscation proceeding.

With said observations, this writ petition is disposed of.

(Sanjay Karol, CJ)

(Prabhat Kumar Singh, J)

Ashwini/Anil

AFR/NAFR	
CAV DATE	
Uploading Date	19.01.2021
Transmission Date	

