

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14055 of 2021

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Vishwajeet Kumar @ Chhotu Son of Awadhesh Prasad, Resident of
Bhagwanpr, P.S. - Bishunganj, O.P., Dist. - Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department, Old Secretariat Building, Patna, PIN - 800015.
2. The District Magistrate, Jehanabad.
3. Senior Superintendent of Police, Jehanabad.
4. S.H.O., Parasbigha Police Station, Jehanabad.
5. Police Sub Inspector, Parasbigha Police Station, Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kulanand Jha, Mr. Alok Kumar Choudhary, Advocates
For the Respondent/s	:	Mr.Vikash Kumar (Sc11)

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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 : 26-08-2021

Heard learned counsel for the parties.

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

“A. For a writ in the nature of mandamus commanding the respondents to release the vehicle Pickup Van TATA YODHA 1700 bearing Registration No.BR01GK-2719, Chassis No.MAT464662LSN09545, Engine No.VARICOR12NZXJ09607 which is registered in the name of the petitioner and the said vehicle is seized in connection with Parasbigha P.S. Case No. 24/2021, dated 27.2.2021 under Section 30(c) of Bihar Excise Act 2018.

B. For any other appropriate writ/writs, order/orders, direction/directions which may be fit in the facts and circumstances of the cases.”

Allegation is recovery of 2500 Kg of Mahua flower kept in 50 bags from the seized Pick-up Van. Petitioner claims to be the owner of the seized Pick-up Van.

Learned counsel for the State submits that no proposal has been made by the Superintendent of Police for confiscation of the seized vehicle under Excise Act.

A Division Bench of this Court in C.W.J.C. No. 23163 of 2018 (Umesh Kumar @ Umesh Mahto versus The State of Bihar and Ors. and other analogues matters) has held that Mahua Flower in its raw form does not come within the definition of intoxicant under the Excise Act and mere possession of Mahua Flower on the vehicle does not make the vehicle liable for confiscation unless and until from attending circumstances it can be inferred that Mahua Flower was likely to be used for preparation of country made liquor.

In the facts and circumstances of the case, 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 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 with usual terms and conditions as imposed by trial court for release of vehicle.

With the aforesaid observations/directions., the writ petition stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.08.2021
Transmission Date	NA