

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.469 of 2021

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Anil Kumar Son of Shiv Charan Saw, Resident of Mohalla - Baijnath Sahay
Lane (Devi Asthan), Police Station- Buniyadganj (Manpur), District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Excise,
Govt. of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Superintendent of Police, Gaya.
4. The Deputy Superintendent of Police, Sadar, Gaya.
5. The Station House Officer, Buniyadganj, Gaya.
6. The Investigating Officer of Buniyadganj Police Station Case No. 08 of
2020, District - Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Adv
For the Respondent/s : Mr. Vivek Prasad GP-7

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

Date : 24-03-2021

Heard the parties.

Petitioner has prayed for following relief(s):-

“That this is an application for issuance of writ
in the nature of mandamus to directing and commanding



the respondent authorities to release the Three Wheeler (Goods) Delivery Van bearing Registration No. BR02GB-4063, Chasis No. MBX0003ABWM775062, Engine No. 58M8936696 of the petitioner which illegally been seized in connection with Buniyadganj Police Station Case No. 08 of 2020 under Section 30(a) (d) of Bihar Prohibition and Excise Act, 2018. And any other order or orders as Your Lordships may deem fit and proper.”

Allegation is recovery of 200 Kg of mahua flower from the delivery van of petitioner which was given on hire by the petitioner to one customer.

As carrying mahua flower itself is not an offence under the Excise Act and mahua flower does not come within the definition of intoxicant under the Excise Act, unless and until, from attending circumstances it can be inferred that mahua flower was being carried for the purpose of preparing illicit mahua wine.

In the facts and circumstances of the present case, let the vehicle of petitioner as detailed above be provisionally released by the Confiscating Authority, Gaya, on usual terms and conditions as imposed for release of vehicle during confiscation proceeding.



With the aforesaid observation and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.03.2021
Transmission Date	NA

