

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2283 of 2022

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Ranjit Kumar Son of Rambabu Gupta, Resident of Village - Gangachak, P.S.-
Masaurhi, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The District Magistrate-cum-Collector, Patna.
5. The Senior Superintendent of Police, Patna.
6. The S.H.O. Masaurhi Police Station, District - Patna.
7. The Investigating Officer, Masaurhi P.S. Case No. 510 of 2021, District -
Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anuj Kumar, Advocate
For the Respondent/s : Mr.Vivek Prasad (G.P.7)

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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 : 22-04-2022

Heard learned counsel for the parties.

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

“A. In the nature of mandamus and/or any other
appropriate writ/s, order/s, direction/s for:

I. Releasing the Tempo (hereinafter referred as
vehicle) bearing Registration No. NBR19M8165, Chassis
No. MCG27P3CNA2072067 seized in connection with
Masaurhi P.S. Case No. 510 of 2021 dated 22.09.2021
registered for offence under Section 30(a) of the Bihar
Prohibition & Excise (Amendment) Act, 2016 and ³/₄ of the

Mahua Flowers Act awaiting confiscation.

B. To any other relief/s to which the petitioner is found entitled to.”

Allegation is recovery of 200 Kg of Mahua flower from the seized vehicle.

Petitioner claims to be the owner of the seized vehicle.

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, **the District Magistrate/Confiscating Officer, Patna** is directed to provisionally release the vehicle of petitioner after due identification of ownership of the vehicle which was seized by the police in excise case on production of ownership and registration papers with respect to vehicle in question upon furnishing adequate sureties to the satisfaction of the concerned District Magistrate/Confiscating Officer.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	