

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6004 of 2022

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Manish Kumar, Son of Ashok Kumar, residence of Village- Hattha, Ward no. 7, P.O.- Hattha, P.S.- Pear, Distt.- Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Addl. Chief Secretary, The Bihar Prohibition of Excise Department, Bihar, Patna.
2. The Commissioner, Bihar Prohibition of Excise Department, Bihar, Patna.
3. The Distt. Magistrate, Muzaffarpur.
4. The Superintendent of Police, Muzaffarpur.
5. The Excise Superintendent, Excise Department, Muzaffarpur.
6. The Sub- Inspector, O.P., Sikandarpur, Muzaffarpur.
7. The Officer-in Charge Town P.S., Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Hans Lal Kumar, Advocate
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 : 11-05-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

“ i. For issuance of appropriate writ/writs for directing and commanding the respondent-authorities for releasing the motorcycle bearing registration No.BR-06 CT3338 in connection with Muzaffarpur (Town) P. S. Case No. 933/2021 (O.P. Sikindarpur)



whereby and whereunder the respondents have illegally confiscated the Motorcycle of the owner. The petitioner has no concern with the Foreign Wine/Deshi wine and Foreign Wine/Deshi wine and authorities has alleged that accused has to drink the alcoholic wine except it nothing incriminating articles recovered.

ii. For further direction to the respondent authorities to quash the FIR and direction to dispose of representation with reason and speaking order within time framed.

iii. And any other relief/reliefs as your Lordships may deem fit and proper.”

Allegation against the rider of the aforesaid motorcycle is of riding the vehicle in drunken condition and dashed against one person. There is no allegation of recovery of any illicit liquor from the seized vehicle.

As there is no allegation of recovery of any illicit liquor from the seized vehicle, same is not liable for confiscation under section 56 of the Bihar Prohibition & Excise Act, 2016 as such, bar of jurisdiction in confiscation under section 60 of the Excise Act is not applicable and the concerned Special Court (Excise) where the criminal case is pending has jurisdiction to pass order for release of seized motorcycle.

Writ petition is disposed of with liberty to the petitioner, who claims to be owner of the seized vehicle, to file an



application under Section 451 of Cr.P.C for release of his seized vehicle in the concerned Special Court (Excise) who shall dispose of such petition within 30 days from the date of its filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	18.05.2022
Transmission Date	

