

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20973 of 2021**

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Shankar Sah Son of Bhikhari Sah Resident of Village- Rehal, Police Station-  
Nauhatta, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department,  
Government of Bihar, Patna.
2. The District Magistrate, District- Rohtas.
3. The Superintendent of Police, District- Rohtas.
4. The S.H. Officer, Police Station- Rohtas, District- Rohtas.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Sunil Kumar Singh, Advocate  
For the Respondent/s : Mr.Kumar Manish (S.C.5)

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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 : 01-04-2022**

Heard learned counsel for the parties.

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

“That this is an application for issuance of a  
direction or directions, order or orders to the  
respondents to release the vehicle (Mahindra Bolero  
Pickup Van) bearing registration No. BR 26 GA 6486,  
Engine No. TBK1A25332 and Chassis No.  
MA1ZN2TBKK1A15021 which is seized in connection  
with Rohtas P.S. Case No. 175 of 2021 dated

02.08.2021 registered under Section 30(C) of Bihar Prohibition and Excise Act, 2018.”

Petitioner claims to be the owner of the seized Mahindra Bolero Pick Up Van from which 11 bags of rice and 540 Kg Mahua Flower were recovered.

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, Rohtas** 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)**

veena/rajiv-

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