

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21423 of 2021

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Pintu Kumar S/o Manilal Saw, Resident of Village- Shrigaon, P.S.- Tikari,
District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Collector cum District Magistrate, Aurangabad.
3. The District Superintendent of Police, Aurangabad.
4. The District Excise Superintendent, Aurangabad.
5. The Officer in Charge, P.S.- Amba, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prabhakar Singh, Advocate
For the Respondent/s : Mr.Lalit Kishore (Ag)

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

Date : 01-04-2022

Heard learned counsel for the parties.

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

“For issuance of appropriate writ/writs in the nature of mandamus for commanding upon the respondents specially the respondent no.6 to release the vehicle (Tata pickup 407) in favour of the petitioner bearing Regd. No. - BR-02Q-4978, Chassis No. MAT455211B8K43183, Engine No.497SPTC39KYY652494 which was seized in connection with Amba P.S. Case No. 168/2021 offences under Section 30(c) of Bihar Prohibition & Excise (Amendment) Act 2018, is directed in the following facts

and circumstances of the case.”

Allegation is recovery of 4343 Kg of Mahua flower kept in 101 sacks from the seized vehicle (Tata Pickup – 407).

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, Aurangabad** 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)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.04.2022
Transmission Date	NA