

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7328 of 2020

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Sabir Ansari, S/o Anavar Ansari R/o Village Rajpur, P.S. Rajpur, District Buxar, at present R/o Karahagar, P.S.- Karahagar, District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Excise Department, Bihar Patna.
2. The Director General of Police Bihar Patna.
3. The District Magistrate cum Collector Kaimur at Bhabua.
4. The Senior Superintendent of Police Kaimur at Bhabua.
5. Station head Officer of Police Station Ramgarh Kaimur at Bhabua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan, Adv.
For the Respondent/s : Mr. Lalit Kishore (AG)
Mr. Vikash Kumar SC-11.

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(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence).

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 31-08-2020

Petitioner has prayed for following reliefs:-

“That the present writ application is being filed with a prayer to issuance of appropriate writ in nature of mandamus or any appropriate writ and order and direction to direct the respondent authorities to release the Hero Honda Passion Pro motorcycle



in red colour, bearing registration No. BR 24J-1093, Chasis No. MBLHA10ANAGF44423, Engine No. HA10EDAGF38144, in favour of the petitioner, which has been seized in connection with Ramgarh P.S. Case No. 287 of 2019, pending in the court of A.D.J.-5th-cum-Special Judge (Excise), Kaimur at Bhabua, instituted under section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018. ”

It is submitted on behalf of petitioner that he is the owner of the motorcycle and is not an accused in the excise case and from the FIR as well as seizure memo it is apparent that no illicit liquor has been recovered from motorcycle and 2.2 liter of country made liquor was recovered from the house of Shailesh Kumar @ Kamlesh Sah and his motorcycle was found parked in the balcony, as such, it is not liable for confiscation under Section 56 of the Excise Act and Special Court (Excise) where the criminal case is pending has jurisdiction to release the vehicle under Section 451 of Cr.P.C. during pendency of trial.



The writ petition is disposed of with a liberty to petition to file an application under Section 451 of Cr.P.C. for release of motorcycle in the Special Court (Excise) and the special court excise shall disposed of such petition within 30 days from the date of filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

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

