

(2020) 07 PAT CK 0045

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 15359 Of 2019

Dudheshwar Saw

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 06-07-2020

Acts Referred:

Bihar Prohibition And Excise Act, 2016 — Section 30(a), 32(1), 60

Citation : (2020) 07 PAT CK 0045

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Ranjay Kumar Singh, Kumar Manish

Final Decision : Allowed

Judgement

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

Heard learned counsel for the petitioner and learned counsel for the State.

This writ petition has been filed for provisional release of TVS XL 100 HD I-Touch start two wheeler bearing Registration No. BR-25E-8017, Engine No. CP1BK1X28732, Chasis No. MD621HP13K1B27353 which has been seized by the police in connection with Kinjar (Arwal) P.S. Case No. 25 of 2019 dated 12.03.2019 registered under sections 30(a) 32 (1) of the Bihar Prohibition and Excise Act, 2016.

Allegation against petitioner is carrying 100 Kgs., of Jawa Mahua Flower in two Jute bags, giving rise to Kinjar (Arwal) P.S. Case No. 25 of 2019 for offences under Excise Act and the Mahua Flower as well as two wheeler was seized.

Division Bench of this court in its judgment dated 09.07.2019 passed in C.W.J.C. No. 23163 of 2018 (Umesh Kumar @ Umesh Mahto Vs. State of Bihar and other analogous cases) with respect to seizure of mahua flower under Excise Act, 2016

has held as follows :

"In result, we hold that the confiscation proceedings, if any, initiated against the petitioners for alleged violation of Section 3 of 'the Mahua Flowers Rules' read alongside the provisions of 'the Act' for possession of Mahua Flowers exceeding 5 kgs., is without sanction of law and consequentially the confiscation proceeding, if any, initiated against the petitioners shall stand quashed and the vehicles seized, if not already released, shall be released in favour of the owner on production of ownership papers."

It has been stated that no confiscation proceeding has been initiated and even if any confiscation proceeding has been initiated, same is directed to be dropped.

Accordingly, the writ petition is disposed of with a direction to the petitioner to file a petition in the court of Special Judge, (Excise), Arwal in Kinjar (Arwal) P.S. Case No. 25 of 2019 for release of the vehicle as bar of jurisdiction in confiscation under section 60 of the Act is not applicable and Special Court (Excise) has jurisdiction to release the vehicle and upon such petition being filed the Special Court (Excise), Arwal is directed to provisionally release the vehicle in favour of its registered owner on due identification and production of ownership documents on usual terms and conditions as imposed for release of vehicle within 30 days from the date of filing of such petition.

The writ petition is allowed.