

(2020) 07 PAT CK 0042

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 13686 Of 2019

Rajesh Chaudhary

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 06-07-2020

Acts Referred:

Bihar prohibition And Excise Act, 2016 — Section 30(d)

Citation : (2020) 07 PAT CK 0042

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

Bench : Division Bench

Advocate : Birendra 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.

This writ petition has been filed for quashing the order dated 24.10.2017 (Annexure-3) passed by District Magistrate, Aurangabad in Excise Case No. 240 of 2017 by which the seized Luna motorcycle bearing Registration No. BR26M 2815, Engine No. DP1AH1501621, Chasis No. MD621DP18H1A01572 has been directed to be confiscated.

Allegation against petitioner is carrying Mahua flower on his TVS Luna two wheeler vehicle for purpose of preparation of country made liquor upon which FIR being Rafiganj P.S. Case No. 91 of 2017 dated 26.05.2017 was instituted under Section 30(d) of the Bihar prohibition and Excise Act, 2016 and the mahua flower weighing 45 kilogram and TVS MO XL IOO SS IV Luna two wheeler were seized. Superintendent of Police recommended for initiation of confiscation proceeding upon which Excise Case No. 240 of 2017 was initiated in court of District Collector-cum-Confiscating Officer, Aurangabad and by order dated 24.10.2017 the vehicle was directed to be confiscated.

Division Bench of this court in CWJC No. 23163 of 2018 (Umesh Kumar @ Umesh Mahto Vs. State of Bihar and other analogous cases) in case of seizure of Mahua Flower under Excise Act in its judgment dated 09.07.2019 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"

For the reasons as stated above the order of confiscation dated 24.10.2017 passed by District Collector-cum- Confiscating Officer, Aurangabad in Confiscation Case No. 240 of 2017 is set aside and District Collector, Darbhanga is directed to release the vehicle in favour of petitioner on due identification and production of ownership papers within 15 days from the date of receipt/production of copy of order passed by this Court.

The writ petition is allowed.