

(2021) 01 PAT CK 0100

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 10065 Of 2020

Sima Devi

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 18-01-2021

Acts Referred:

Bihar Prohibition And Excise Act, 2016 — Section 13, 30(c), 2(40)

Citation : (2021) 01 PAT CK 0100

Hon'ble Judges : Sanjay Karol, CJ;Prabhat Kumar Singh, J

Bench : Division Bench

Advocate : Rabi Bhushan, Kumar Manish

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

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

I. For issuance of writ in the nature of Mandamus to direct the respondents to release the vehicle i.e. Hero Splender + Motor Cycle bearing

Registration No. BR46D-3053, Chassis No. MBLHA10CGGHC58887, Engine No. HA10ERGHHC56463 of the petitioner which was seized in

connection with Excise Case No. 190 C2 of 2019 registered Under Sections 30(c), 2[40(vi)] and 13 of the Bihar Prohibition and Excise Act 2018 and

Section 2(e), 3, 5 (B) and 18 of Bihar Excise Mahua Flower Rule, 2006

II. For direction to the respondents to release the vehicle i.e. Hero Passion Pro Motor Cycle bearing Registration No.BR46D-3053, Chassis No.

MBLHA10CGGHC58887, Engine No. HA10ERGHHC56463 as she is the registered owner of the said vehicle.

III. For any other relief or reliefs for which the petitioner is entitled in the facts

and circumstances of the case.

Petitioner has filed this case for release of his vehicle which was seized by the police carrying 120 Kgs of Mahua Flower.

In view of judgment and order dated 09.07.2019 passed by a Division Bench of this Court in CWJC No. 23163 of 2018 (Umesh Kumar @ Umesh

Mahato Vs State of Bihar and its analogous cases), recovery of mahua flower in its raw form itself does not constitute any offence under Bihar

Prohibition & Excise Act, 2016, as mahua flower does not come within the definition of intoxicant defined under section 2(40) of the Act unless it is

converted into spirit or spiced spirit or is in process of such conversion.

The writ petition is disposed of with a direction to the petitioner to appear before the District Collector/Confiscating Officer, Lakhisarai, on 18.02.2021

and District Magistrate, Lakhisarai shall provisionally release the vehicle of petitioner after due identification of ownership of the vehicle and on

production of ownership and registration documents with respect to vehicle in question in his name with two sureties (one local) to the extent of the

value of the vehicle as indicated in the insurance document.

The release shall be allowed within a period of 14 days from the date of submission of the sureties as stated above, which would however be subject

to finalization of the confiscation proceeding.

With said observations, this writ petition is disposed of.