

(2020) 07 PAT CK 0046

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 17003 Of 2019

Surendra Yadav

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 06-07-2020

Acts Referred:

Bihar Prohibition And Excise (Amendment) Act, 2018 — Section 30(C), 56(K), 60

Citation : (2020) 07 PAT CK 0046

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

Bench : Division Bench

Advocate : Vinod Kumar, Vivek Prasad

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 release of Tata Pick-up Van bearing registration no. BR 02GA 4541 which has been seized in connection with Gaya Excise Case No. 164 of 2019 registered for the offence punishable U/s 30(C), 56(K) of Bihar Prohibition and Excise (Amendment) Act, 2018.

Allegation is recovery of 1160 Kgs of Mahua Flower in 29 bags from the vehicle of petitioner, on basis of which Gaya Excise Case No. 164 of 2019 was instituted for offences under Excise Act and the mahua flower and vehicle were 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), Gaya in Gaya Excise Case No. 164 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), Gaya 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.