

(2020) 07 PAT CK 0043

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 14015 Of 2019

Ajay Sao @ Ajay Saw

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision: July 6, 2020

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

Bench: Division Bench

Advocate: Sanjeet Kumar, Vikash Kumar

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 RX Pick-up Van bearing registration no. BR/01/GC 1844 Engine No. 497SP38CXY617789, Chasis No.

MAT478012C9C10934 which has been seized in connection with Aurangabad Sadar P.S. Case No. 139 of 2019 registered for the offence punishable

U/s 30(a), (c) of Bihar Prohibition and Excise act, 2018.

Allegation is recovery of 42 bags of Kapila Pashu Aahar, high protein plan animal feeds and mahua flower from the vehicle of petitioner giving rise to

Aurangabad Sadar P.S. Case No. 139 of 2019 for offence under Excise Act.

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 :

â€œIn result, we hold that the confiscation proceedings, if any, initiated against the petitioners for alleged violation of Section 3 ofâ€˜ the Mahua

Flowers Rulesâ€™ read alongside the provisions of â€˜the Actâ€™ 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.â€

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), Aurangabad in

Aurangabad Sadar P.S. Case No. 139 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), Aurangabad

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.