

(2020) 07 PAT CK 0053

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 20907 Of 2019

Triloki Nath Choudhary

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: Dewendra Narayan Singh, 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 Mahindra Bolero Pickup Van bearing registration no. UP-60AT-2238, Engine No. TBJIH70070, Chasis

No. MAIZU2TBJ1H63536 which has been seized in connection with Manjhi P.S. Case No. 145 of 2019 registered for the offence punishable under

Sections 30(a), 56(B) of the Bihar Mahua Flower Act.

Allegation is recovery of 1000 Kg of mahua flower from the vehicle of petitioner, on basis of which Manjhi P.S. Case No. 145 of 2019 was instituted

for offences under Excise Act and the mahua flower as well as 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 :

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), Saran at Chapra in

Manjhi P.S. Case No. 145 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), Saran at Chapra 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.