

Gunjan Kumar Vs State Of Bihar And Ors

Court: Patna High Court

Date of Decision: July 9, 2020

Acts Referred: Bihar Prohibition And Excise (Amendment) Act, 2018 " Section 30(a)(d), 60

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

Bench: Division Bench

Advocate: Raj Kishor Prasad, Vivek Prasad

Final Decision: Disposed Of

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 respondents.

Petitioner has prayed for following relief:-

For issuance of writ of mandamus and any other appropriate writ/writs, order/orders and direction/directions to the respondents authority to

release the vehicle (Motorcycle) bearing Registration No. BR-01DK-4792, Chasis No. MD2A11CY5HRE16445, No. DHYRHE02746 which was

seized by the Telhara Police Station, under District-Nalanda (Bihar) in connection with Telhara P.S. Case No. 36 of 2019 dated 14.03.2019 under

Section 30(a)(d) of Bihar Prohibition and Excise (Amendment) Act, 2018, after setting aside the order dated 05.09.2019 passed by the learned A.D.J.-

3rd cum-Special Judge, Nalanda at Biharsharif in Telhara P.S. Case No. 36 of 2019 (Annexure-P/2) and the vehicle in question is lying in the open

sky without any care in the open campus of Telhara Police Station, Nalanda (Bihar).

It has been stated on behalf of counsel for the State that final order dated 16.12.2019 in confiscation case no. 99 of 2019 has been passed by the

confiscating officer as such present writ petition for provisional release of vehicle during pendency of confiscating proceeding has become infructuous.

As there has been recovery of illicit liquor from the seized vehicle same was liable for confiscation as such the Special Judge, Excise Nalanda at

Biharsharif has rightly rejected the petition of petitioner for release of vehicle as there is bar of jurisdiction in confiscation under section 60 of the Act.

The writ petition is disposed of with liberty to petitioner to avail the statutory remedy of appeal/revision against the final order dated 16.12.2019 passed

by the confiscating authority in confiscation case no. 99 of 2019. If any such appeal is filed by the petitioner the appellate authority shall condoned the

delay in filing appeal as the matter remain pending before this court and shall decide the appeal of petitioner on merit preferably within 30 days from

the date of filing of such appeal. The vehicle if not already auction sold may not be sold during pendency of appeal.