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**(2020) 07 PAT CK 0208**

**Patna High Court**

**Case No:** Civil Writ Jurisdiction Case No. 2774 Of 2020

Manoj Kumar

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

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**Date of Decision:** July 9, 2020

**Acts Referred:**

- Indian Penal Code, 1860 - Section 272, 273
- Bihar Prohibition And Excise Act, 2016 - Section 30(a), 56

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

**Bench:** Division Bench

**Advocate:** Ajay Kumar Sinha, Kumar Manish

**Final Decision:** Disposed Of

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### **Judgement**

Heard learned counsel for the petitioner and learned counsel for the State.

Petitioner has prayed for following reliefs:-

(i) To issue an appropriate order/s, direction/s including a writ preferably in nature of mandamus commanding the respondents to release the

vehicle/Bajaj CT 100 motorcycle bearing Reg. No.BR-02AN-1843,Chassis No.MD2B37AY8JPA24520, Engine No.PFYPJA68767 in favour of the

petitioner who is owner of the said motorcycle seized in Paraiya P.S. Case No.117/18 under Sections 272/273 of I.P.C. and under Section 30(a) of

Bihar Prohibition and Excise Act, 2016 lying in the premises of police station and subject to natural decay by furnishing sufficient security to the

satisfaction of learned Spl. Judge Excise, Gaya.

(ii) For issuance of appropriate writ, order/direction commanding the respondents to release the motorcycle of the petitioner during the pendency of

the confiscation proceeding a reasonable surety till the disposal of the said confiscation proceeding.

(iii) Any other relief/s to which the petitioners are entitled in the facts and circumstances of the case.â€

Counter affidavit has been filed on behalf of respondents in which it has been admitted that since no illicit liquor was recovered from the seized

motorcycle, as such seized vehicle is not liable for confiscation under Section 58 of the Act. Relevant paragraph of counter affidavit is quoted

hereinbelow:-

â€œ9. That it is humbly stated and submitted that on 11.02.2020 when the matter was placed before the District Magistrate, Gaya after seeing the

seizure list that nothing incriminating articles were recovered from the vehicle in question, District Magistrate immediately directed the Senior

Superintendent of Police, Gaya and Station House Officer, Paraiya Police Station, Gaya to release the vehicle of the petitioner immediately in light of

order in C.W.J.C No.5049/2018 Diwaker Kumar Singh versus the State of Bihar and others.â€

In view of statement made in the counter affidavit, the relief/s prayed, has already been granted, accordingly, this writ application, is disposed of.