

(2020) 11 PAT CK 0099

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 8907 Of 2020

Savita Devi

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision: Nov. 27, 2020

Acts Referred:

- Indian Penal Code, 1860 - Section 272, 273
- Bihar Prohibition And Excise Act, 2016 - Section 30(a), 41(i), 58, 60
- Code Of Criminal Procedure, 1973 - Section 451

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

Bench: Division Bench

Advocate: Javed Aslam, Devika Rani, Vikash Kumar

Final Decision: Disposed Of

Judgement

Heard the parties.

Petitioner has prayed for following reliefs:-

A (A) A writ in the nature of mandamus or any other appropriate writ/writs, order/orders, direction commanding the respondents for the following:-

(i) To release the Apachi Motorcycle bearing registration no.BR 29 AB- 7168, Engine No. BE 4FH 2086581, Chasis No.MD634BE41H 2F 86129 in

favour of the petitioner which was seized in connection with Hissainganj P.S. Case No.148/2020 dated 10.06.2020 registered for the offence under

Sections 272, 273 of the Indian Penal Code and Section 30(a) 41(i) of the Bihar Prohibition and Excise Act, 2016, awaiting confiscation.

(ii) To any other relief/reliefs for which the petitioner found entitled to.

It is apparent from the contents of FIR as well as seizure memo that no illicit liquor was recovered from the seized motorcycle. The motorcycle was seized by the police as it was found parked outside the house from where, the illicit liquor was recovered, as such, the seized motorcycle is not liable for confiscation under Section 58 of the Excise Act and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable and the Special Court, Excise where the excise case is pending has jurisdiction to pass an order for interim release of vehicle during pendency of trial on terms and conditions, as usually imposed for release of seized vehicle.

The writ petition is disposed of with liberty to petitioner to file an application under Section 451 of Cr.P.C. for release of her vehicle before the Special Court, Excise who shall decide said petition within 30 days from the date of its filing.