

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2562 of 2018

Arising Out of PS. Case No.-1003 Year-2018 Thana- BIHTA District- Patna

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Gupteshwar Prasad Keshari @ Gupteshwar Prasad, Son of Late Shiv Pujan Prasad, Resident of Mohalla- Singahi Kalan, P.S. Arrah Town, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise and Prohibition, Govt. of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna.
4. The Rural Superintendent of Police, Patna.
5. The S.H.O. Bihta, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Ataul Haque
For the Respondent/s	:	Mr. Vikash Kumar (Sc-11)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 12-10-2018 Learned counsel for the petitioner submits that the driver was in drunken condition while driving the truck in question and for that reason the truck has also been seized.

Learned counsel for the State submits that in fact, in the drunken stage the driver has met with an accident and has injured some persons who are named in the first information report. It is submitted that in such circumstance, the petitioner should seek his ready for release of the truck in the court below.

In the given facts and circumstance of the case, this Court is of the opinion that in view of the judgment of Hon'ble Division Bench of this Court in the case of **Diwakar Kumar**



Singh Vs. The State of Bihar through the Principal Secretary, Excise Department & Ors. reported in **2018 (3) PLJR 403** the vehicle in question cannot be seized for the offence alleged under the provisions of the Bihar Prohibition and Excise Act.

The truck has, however, met an accident and for that reason this Court would give liberty to the petitioner to make an appropriate application in the court below seeking release of the vehicle. If such an application is filed the same shall be considered by the court below taking note of the judgment passed by the Division Bench of this Hon'ble Court and the petition shall not be rejected on the ground that the first information report has also been registered for the provisions of the Bihar Prohibition & Excise Act, 2016 and the same shall be disposed off within 30 days from the date of filing of such application.

This application stands disposed off.

(Rajeev Ranjan Prasad, J)

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