

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3503 of 2018**

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1. Rupesh Kumar @ Rupesh Mukhiya Son of Nagendra Mukhiya Resident of Village - Baghari, P.S. - Sursand, District - Sitamarhi.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Bihar Prohibition and Excise Act, Govt. of Bihar, Patna.
2. The Collector-cum-District Magistrate, Sitamarhi.
3. The Senior Superintendent of Police, Sitamarhi.
4. The Excise Superintendent, Sitamarhi.
5. The Assistant Excise Commissioner, Sitamarhi.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sunil Kumar

For the Respondent/s : Mr. VIKASH KUMAR- SC11

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**And**

**HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 05-04-2018**

Keeping in view the factual dispute with regard to the ownership of the vehicle itself and the contradictory nature of evidence available on record namely the statement of the petitioner recorded by the statutory authorities as is evident from page 12 and the documents like registration and insurance of the vehicle which are inconsistent to the statement of the petitioner as contained in statement at page 12, we are not inclined to exercise our extraordinary jurisdiction under Article 226 of the Constitution and direct for release of the vehicle where the ownership and the question as to



whether the vehicle of the petitioner itself is a dispute and such a dispute cannot be sorted out in a proceeding under Article 226 of the Constitution based upon affidavit of the parties. Once there are contradictory material available with regard to the vehicle in question based on the materials on record, it is for the petitioner to file an appeal or seek recall of the order approaching the statutory appellate authority who may be better place to appreciate the dispute from fact cause enquiry and grant relief to the petitioner.

With the aforesaid liberty to the petitioner, this application is disposed off.

**(Rajendra Menon, CJ)**

**(Rajeev Ranjan Prasad, J)**

Arvind/-

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| AFR/NAFR          | NAFR       |
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