

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2118 of 2018

Arising Out of PS. Case No.-274 Year-2018 Thana- PATLIPUTRA District- Patna

Harichandra Bin, Son of Shri Dadan Prasad @ Dadan Bin, R/o Village Bind
Toil Ara, P.S. Nagar Ara, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department Bihar, Patna.
2. The Director, General of Police, Bihar, Patna.
3. The District Magistrate, cum Collector, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Station Head Officer Patliputra, Police Station, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan
For the Respondent/s : Mr. Vivek Prasad

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-10-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is seeking provisional release of vehicle Pro
Motorcycle bearing Registration No. BR03M-1519 which has been
seized in connection with Patliputra P. S. Case No. 274 of 2018
registered under Sections 37 (A) (KH) of the Bihar Prohibition &
Excise Act, 2016.

Learned counsel for the petitioner submits that the
motorcycle was seized when the petitioner was found in drunken
condition. Nothing has been recovered from the motorcycle and
therefore, the very seizure is illegal. It is also submitted that
confiscation proceeding has been initiated in respect of the vehicle.



Learned counsel for the State is present.

Considering the facts and circumstances of the case and also the judgment of the Hon'ble Division Bench 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 District Magistrate, Patna is directed to release the vehicle in question forthwith in favour of the petitioner within a week after submission of the document showing the ownership of the vehicle and registration certificate in the name of petitioner.

Since nothing has been recovered from the vehicle, there is no question of submission of any surety bond in view of the judgment of the Hon'ble Division Bench of this Court.

It is made clear that before initiation of any confiscation proceeding the District Magistrate shall consider the preliminary issue as to whether in view of Section 56 of the Bihar Prohibition and Excise Act, 2016 a confiscation proceeding may be initiated in respect of a vehicle from which there is no recovery of illicit liquor.

This application stands disposed off, accordingly.

(Rajeev Ranjan Prasad, J)

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