

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16763 of 2018

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1. Santosh Kumar and Anr S/o Bharat Sahu Sathi, resident of Kanhaiya Chouk Amba Nivas Ward No. 2 Jjitwarpur Nizamat, Samastipur.
 2. Shivaji Sah, S/o Faudar Sah, Resident of Village- Mathurapur, P.S.- Warishnagar, Distt.- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Prohibition Excise and Registration Department, Government of Bihar, Patna.
2. The District Magistrate cum Collector Samastipur.
3. The Superintendent of Excise, Samastipur.
4. The Superintendent of Police, Samastipur.
5. The S.H.O. Sarairanjan Ghatho, P.S. Distt Samastipur.
6. The Investigation Officer of Sarairanjan Ghatho, P.S. Case No. 101/2018 Distt.- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Surya Narayan Roy
For the Respondent/s : Mr.Vikash Kumar- Sc11

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 04-02-2019

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the State.

The petitioners pray for provisional release of Sky Colour Mini Bus bearing registration No. BR11E 2721, Chassis No. 386513HSZ824774, Engine No. 497TC93HSZ881455, which has been seized in connection with Sarairanjan (Ghatho) P.S. Case No. 101 of 2018 for the offences punishable under section 37(c) of the Bihar Prohibition and Excise Act, 2016.

The allegation against the petitioners is of drunken driving and in such condition, the vehicle has been seized. Undisputedly, there is no recovery from the vehicle as it is also



confirmed from the seizure list.

Having hard learned counsel for the parties and taking note of the legal positions settled by 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*, we direct for release of the vehicle in question in favour of the petitioners within a week on furnishing/production of the document showing the ownership of the vehicle and registration certificate in the name of the petitioners supporting the claim of the petitioners before the Officer-in-Charge, Sarairanjan (Ghatho) Police Station, Samastipur as because neither the F.I.R. nor the seizure list reflects any reason for proceeding to be continued against the vehicle in question.

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.

With this observation above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.02.2019
Transmission Date	NA

