

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19159 of 2018

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Deepak Kumar S/o Shivji Shah, R/o Mohalla- Maripur Power House Chowk,
P.O.- HPO, P.S. Kazi Mohammadpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Excise, Tirhut Division Muzaffarpur.
3. The District Magistrate, Muzaffarpur.
4. The Superintendent of Police, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajiv Kumar
For the Respondent/s : Mr.Vivek Prasad -GP-7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-04-2019

Heard the learned counsel for the petitioner and
learned counsel for the State.

The petitioner prays for release of his Motorcycle
bearing Registration No.BR06-BH-2444, Chasis
No.MD2A13EYOHCF64031, Engine No.DCYCHF53657, which
has been seized in connection with Kazi Mohammedpur P.S. Case
No.426 of 2017 by the police under the provisions of Bihar
Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that it is
simply because the motorcycle of the petitioner was parked
outside a Hotel where some people had gathered and were having



drinks that in the process, the motorcycle has been seized and a police case registered arising out of Kaji Mohammadpur P.S. Case No.426 of 2017 for offence punishable under Section 37(C) of Bihar Prohibition and Excise Act, 2016 and Section 5(i)(A)(B)(C)(D) of Immoral Traffic (Prevention) Act, 1956 for violation of the provisions of the Immoral Prevention Act.

The short submission made by the petitioner in support of the prayer is that neither the petitioner was amongst the drunken people nor he is an accused in the case nor any recovery was made from the motorcycle in question. The position is confirmed from the FIR which is not disputed by learned counsel appearing for the State. It is further submitted that confiscation case is pending.

Having heard 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 the District Magistrate-cum-Collector, Muzaffarpur for release of the vehicle in question in favour of the petitioner within a week on furnishing/production of the document showing the ownership of the vehicle and registration certificate in the name of the petitioner 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. The confiscation proceeding itself is a futile exercise because there is no recovery of liquor.

With this observations/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
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