

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19718 of 2018

=====

Soni Kumari D/o of Devi Ray Resident of Mohalla-Sharifaganj, Opposite
Shanti Bhawan, P.S. Shampatchak, Distt.-Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna
2. The Principle Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
3. The Collector-cum-District Magistrate, Vaishali
4. The Superintendent of Police, Vaishali
5. The Superintendent of Excise, Vaishali

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma
For the Respondent/s : Mr. Vivek Prasad- GP7

=====

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

The petitioner prays for provisional release of
TVS Apache RTR 160 Motorcycle bearing Registration No.
BR-01DR-2526 (Chesis No. MD634BE47J2A49691), which
has been seized in connection with Hajipur Sadar P.S. Case
No. 400 of 2018 for the offences punishable under Sections
420, 120B of the Indian Penal Code and sections 30(a) and
38(1) of the Bihar Prohibition and Excise Act.



Learned counsel appearing for the petitioner submits that a plain reading of the first information report would confirm that no recovery was made from the motorcycle of the petitioner though some recovery was made from the Car and the Truck which were seized together with the motorcycle of the petitioner. He further submits that even when no recovery was made from the motorcycle in question, yet it has been seized.

Learned counsel appearing for the State has not been able to shift the position.

We have heard learned counsel for the parties, perused the records and also examined the first information report which confirms the submissions made by the learned counsel appearing for the petitioner regarding absence of recovery from the motorcycle in question.

In such circumstances and taking note of the legal position 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 designated Court below for release of the vehicle in favour of the petitioner



within a period of 14 days of receipt/production of a copy of this order subject to production of the document showing the ownership of the vehicle and registration certificate by the petitioner.

Since no recovery was made from the vehicle in question, there is no question of initiation of confiscation proceeding in respect of the vehicle in question nor there is any requirement of furnishing any surety as well.

With the observation/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.04.2019
Transmission Date	NA

