

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2204 of 2019

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Tripurari Kumar Singh @ Tripurari Singh, aged about 33 years, gender Male,
S/o- Anandi Singh R/o- Valmi Complex, Quarter No. F-32, Police Station-
Phulwarisharif, District Patna

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Prohibition Department, Government of Bihar, Patna
2. The Excise Commission of Bihar, Patna
3. The District Magistrate cum Collector, Patna
4. The Superintendent of Police Patna
5. The Office-in-Charge, Phulwarisharif(Janipur) Police Station, Patna

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Ranvijay Singh, Adv.
For the Respondent/s : Mr. Vivek Prasad, GP7

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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 : 07-02-2019

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

The petitioner prays for provisional release of his Hero
H Passion Pro motorcycle bearing registration No. BR01CC-1440,
which has been seized in connection with Phulwarisharif (Janipur)
P.S. Case No. 911/2018 for the offences punishable under Section
20(A)(B)(C) of the Bihar Prohibition and Excise Act, 2016.

The allegation against the petitioner is of drunken
driving and in such condition, the vehicle has been seized.



Learned counsel for the petitioner submits that the liquor prohibited under the Bihar Prohibition and Excise Act, 2016 has not been recovered from the motorcycle but on mere suspicion it has been seized.

Learned counsel for the State while not disputing the position submits that in fact vehicle was leading another car from which liquor was recovered.

Having heard learned counsel for the parties and taking note of the fact that since there is no dispute on the issue that there was no recovery from the motorcycle in question, it could not have been seized and 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 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 supporting the claim of the petitioner before the Officer-in-Charge, Phulwarisharif (Janipur) Police Station 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 the observations/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Archana/
Surendra/-

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

