

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2531 of 2019

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Amar Lal Ram, aged about 41 years (M), S/o Late Nanu Lal Ram, R/o Barsoi
Railway Gumti, P.s.-Barsoi, Distt.-Katihar

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Deptt., Patna
2. The District Magistrate, Katihar
3. The Superintendent of Police, Katihar
4. The S.H.O. Balrampur Police Station, Katihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s : Mr. Anil Kr. Sinha (GA 1)

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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 : 14-02-2019

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

The petitioner prays for provisional release of his
Tempo bearing registration No. BR11M 6966, which has been
seized in connection with Balrampur P.S. Case No. 153 of 2018
for the offences punishable under Section 279, 337, 338 of the
Indian Penal Code read along with side provisions of 37(b) of



Bihar Prohibition and Excise Act, 2016.

The allegation against the petitioner 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 but 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 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 District Magistrate, Katihar 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.

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)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2019
Transmission Date	NA

