

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4127 of 2019

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Md. Khalid @ Khalid aged about 32 years (M), Son of Mohammad Masruddin Resident of Village-Pathraha, P.O. and Police Station-Ghurna, District-Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Araria.
4. The Superintendent of Police, Araria.
5. The Superintendent of Excise, Araria.
6. The S.H.O. Fulkaha Police Station, District-Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana
For the Respondent/s : Mr. Vikash Kumar (SC11)

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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 : 07-03-2019

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

The petitioner prays for provisional release of his motorcycle bearing registration No. BR38K-1492, Chassis No. MBLJA05EMF9J05846, Engine No. JA05ECF9J00455, which has been seized in connection with Fulkaha P.S. Case No. 201 of 2018 for the offence punishable under section 37(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. Undisputedly, there is no recovery from the vehicle as it is also confirmed from the seizure list.

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 designated Court below because neither the F.I.R. nor the seizure list reflects any reason for proceeding to be continued against the vehicle in question.

The confiscation proceeding itself is a futile exercise because there is no recovery of liquor from the vehicle in question.

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	13.03.2019
Transmission Date	NA

