

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2802 of 2019

=====

Jay Prakash @ Jai Prakash, aged about 36 years, Male, Son of Shiv Balak Prasad Resident of Village-Bemai, P.O.-Ali Nagar Pali, P.S. Pali, District-Jehanabad, Bihar

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna
2. The Collector-Cum-District Magistrate, Patna
3. The Superintendent of POLice, Patna
4. The S.H.O., Kotwali POLice Station, District-Patna

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr. Yogendra Kumar Singh
For the Respondent/s : Mr. Anil Kumar Sinha (Ga1)

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 19-02-2019

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

The petitioner prays for provisional release of his TVS Apache RTR 200 motorcycle bearing registration No. BR01DY-8671, Chassis No. MD637BRI8J2F10887 and Engine No. BR1FJ2310683 which has been seized in connection with Kotwali P.S. Case No. 33/2019, Special Case No. 554/2019 for the offences punishable under Sections 279 and 290 of the Indian Penal Code and 37(h)(c) of the Bihar Prohibition and Excise (Amendment) Act, 2016.

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



there is no recovery from the motorcycle 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 at Patna, because neither the F.I.R. nor the seizure list reflects any reason for proceeding to be continued against the motorcycle in question.

Since nothing has been recovered from the motorcycle, 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)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.02.2019
Transmission Date	NA

