

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17544 of 2018

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Mohit Kumar Singh @ Mohit Kumar Son of Dineshwar Singh, Resident of
Village+Post Office- Lahang Dumaria, Police Station- Bihiya, District-
Bhojpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Excise Department,
Bihar, Patna
2. The District Magistrate, Bhojpur, Arrah.
3. The Superintendent of Police, Bhojpur at Arrah.
4. The Superintendent of Police Jagdishpur, Bhojpur.
5. The Officer-in-Charge Police Station- Barhara, District- Bhojpur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kameshwar Singh
For the Respondent/s : Mr. Kumar Manish - SC5

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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 : 01-04-2019

Heard Mr. Arjun Prasad Singh, learned counsel
for the petitioner and Mr. Madan Mohan, learned AC to SC 5
appearing for the State.

The petitioner prays for provisional release of
Hero Honda Passion Pro bearing Registration No. BR-03L-
4499, which has been seized in connection with Barhara
(Krishnagarh) P. S. Case No. 353 of 2016 for the offences
punishable under Section 30 of the Bihar Prohibition and
Excise Act.



Learned counsel for the petitioner submits that there is no recovery from the petitioner as can be seen from the recitals of the first information report, a copy of which is at Annexure-1, which simply mentions that liquor was found near the motorcycle in question. He submits that there is no statement in the first information report that any part of the alleged recovery was made from the motorcycle in question.

Mr. Madan Mohan, learned counsel appearing for the State opposing the prayer submits that since the motorcycle in question was being used for the purpose and was standing near the place of recovery, hence the seizure.

We have heard learned counsel for the parties, perused the records and also examined the first information report which confirms the submissions made by Mr. Singh regarding absence of recovery from the motorcycle in question, rather the liquor in question was recovered from a place near which the vehicle in question was standing.

In such circumstances 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 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 this observation/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
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