

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19753 of 2018

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Tinku Chaudhari S/o Prabhu Chaudhari, Resident of Village- Rasunk, P.S.-
Morkahi, District- Khagaria.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Excise Department,,
Bihar, Patna
2. The Divisional Commissioner, Excise Department, Munger Division,
Munger.
3. The Collector-cum-District Magistrate, Khagaria.
4. The Superintendent of Police, Khagaria.
5. The Dy. S.P., Khagaria.
6. Md. Murshid Khan, Son of Late Tabrej Khan, At present posted at ASI,
Morkahi, P.S. under the district of Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar Singh
For the Respondent/s : Mr.Vivek Prasad -GP 7

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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 : 08-04-2019

Heard learned counsel appearing for the
petitioner and learned counsel appearing for the State.

The petitioner prays for provisional release of
Bajaj Discover Motorcycle bearing Chesis No.
MD2A15AYOJRL80399, which has been seized in connection
with Morkahi P.S. Case No. 64 of 2018 for the offences
punishable under Section 30(a) of the Bihar Prohibition and



Excise Act.

Learned counsel appearing for the petitioner submits that a plain reading of the first information report would show that nothing was recovered from his motorcycle, rather the alleged recovery is from the co-rider of the vehicle. He further submits that despite there being no recovery from his motorcycle, yet it has been seized.

Learned counsel appearing for the State has not been able to shift the position.

We have heard learned counsel for the parties, perused the records and also examined the first information report which confirms the submissions made by the learned counsel appearing for the petitioner regarding absence of recovery from the motorcycle in question, rather the liquor in question was recovered from the possession of the co-rider.

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 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 the observation/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.04.2019
Transmission Date	NA

