

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4158 of 2019

=====

Santosh Saw aged about 39 years (Male), S/o Vajir Saw, Resident of Village-
Choraha, P.S.Simra Hazari, Dist.-Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Excise, Govt. of Bihar, Patna
2. The District Magistrate, Aurangabad
3. The Superintendent of Police, Aurangabad
4. The Officer In-charge, Simra P.S., Dist.-Aurangabad

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Leelawati Kumari
For the Respondent/s : Mr. Kumar Manish (SC5)

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 11-03-2019

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

The petitioner prays for provisional release of
Hero Splendor Pro Motorcycle bearing registration No.
JH03M5627, which has been seized in connection with Simra
P.S. Case No. 06 of 2019 for the offences punishable under
sections 37(b)/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 District Magistrate, Aurangabad 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	02.04.2019
Transmission Date	NA

