

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22145 of 2018

Punam Devi, W/o Dhanesh Prasad, Resident of Village- Katnarahwar
Narakwa Kat, P.S.- Kumaikate, District- Gopalganj, at present residing at
Vill- Gazipur, P.S.- Thamkuhiraj, Dist- Kuhi Nagar.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Excise Prohibition and Registration Department Government of Bihar, Patna.
2. The Collector cum District Magistrate, Gopalganj.
3. The Superintendent of Police Excise, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Officer-in-Charge Bishambharpur Police Station, Gopalganj.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Prabhakar Singh, Adv.
For the Respondent/s : Mr. Vikash Kumar, SC 11

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 22-04-2019

A counter affidavit is being filed. Let it be taken on record.

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. UP57W6701, which has been seized in connection with Bishambharpur P.S. Case No. 71/2018 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2016.

Learned counsel for the petitioner submits that there was no recovery from the motorcycle rather a bottle containing 1.200 litres of Country made liquor was recovered from the possession of the driver of the motorcycle who was arrested at the spot.

Learned counsel for the State is not in a position to dispute the position that there was no recovery from the motorcycle.



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 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)

(Anjani Kumar Sharan, J)

Archana/
Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.05.2019
Transmission Date	NA

