

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23093 of 2018

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Surendra Kumar Sah son of Shivshankar Sah, Resident of Village-Bharwara,
P.S. Sindhwara (Singhwara), District- Darbhanga.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Excise and Prohibition
Department, Govt. of Bihar, Patna
2. The District Magistrate, Darbhanga.
3. The Superintendent of Police, Darbhanga.
4. The Officer Incharge of Sindhwara, Purnea.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Prakash Mahto
For the Respondent/s : Mr. Anil Kr.Sinha -Ga1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 26-04-2019

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

The petitioner prays for provisional release of his Hero
Glamour motorcycle bearing registration No. BR-06 B.K.-2829,
Chassis No. MBLJASO-19H-9F05695 (wrongly mentioned as
MBLZKSO-19H-9F05695) and Engine No. JA06EGH9F05687
which has been seized in connection with Sindhwara (Singhwara)
P.S. Case No. 17/2018 for the offences punishable under Section
30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2016.



Learned counsel for the petitioner informs that there is no recovery from the motorcycle and it is on mere suspicion that it has been seized.

Learned counsel for the State informs that there was recovery of 4627.44 litres of IMFL from the godown where the Van was standing.

Considering that the recovery is from the godown and not the vehicle 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)

Surendra/-

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

