

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23167 of 2018

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Binod Kumar, Son of Late Shyam Sundar Yadav, resident of Village-Bandhua, Station Shohaipur, P.S.- Muffasil, District Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Prrincipal Secretary, Department of Excise and Prohibition, Registration , Govt. of Bihar, Patna.
2. The Collector-cum-District Magistrate, Gaya.
3. The Superintendent of Excise, Gaya, Dist.- Gaya.
4. The Senior Superintendent of Police, Gaya, Dist Gaya.
5. The Officer-in-Charge of Fatehpur, P.S. Dist.- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Adv.
For the Respondent/s : Mr. Vivek Prasad, GP-7

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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 Passion Pro motorcycle bearing Registration No.BR02U-1190 Chasis No. MBLHA10AWDHB11818 and Engine No.HA10ENDHB05113 which has been seized in connection with Fatehpur P.S. Case No.325 of 2018 (District- Gaya) for the offences punishable under sections 25(1-b), a/26 of the Arms Act read alongside the provisions of section 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 14 days 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 as 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.

With the observation above, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

skpathak/-

AFR/NAFR	NAFR
CAV DATE	NA
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