

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5151 of 2019

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Sanjiv Kumar @ Sanjeev Yadav @ Sanjeev Kumar Yadav, aged about 22 years (Male) Son of Raj Kumar Yadav @ Ram Kumar Yadav Resident of Village- Atari Maharajganj, P.O. and P.S.-Laukahi, District-Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Excise and Prohibition Govt. of Bihar Patna
2. The District- Magistrate Madhubani
3. The Superintendent of Police Madhubani
4. The S.H.O., Police Station Rajnagar, Madhubani, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gagan Deo Yadav
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 TVS Phonix Motorcycle bearing Registration No. BR-32T-0844, Engine No. FF4KG1466250, Chasis No. MD625SF48G1K78206 and Samsung Z400F(Gold) together with Silver Chain, which have been seized in connection with G.O. No. 187 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 confirm that although 90 liters of Nepali liquor was recovered from the place of occurrence, but no recovery was made from the motorcycle in question. He further submits that even when no recovery was made from the motorcycle in question, yet simply because it was standing nearby that the motorcycle, the Samsung Z400F (Gold) mobile together with Silver Chain of the petitioner have 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 Mr. Gagan Deo Yadav regarding absence of recovery from the motorcycle in question, rather the liquor in question was recovered from a place where the vehicle in question was standing.

In such circumstances and taking note of the legal position 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 the designated Court below for the release of the vehicle, the Samsung Z400F (Gold) mobile together with Silver Chain in question 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

