

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5159 of 2019

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Jay Mahto aged about 24 years (m) son of Shiv Mahto resident of Village
Dilman Chapra, P.S.- Kesariya, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principle Secretary Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Collector-Cum- District Magistrate East Champaran, Motihari.
4. The Superintendent of Police East Champaran, Motihari.
5. The Superintendent of Excise, East Champaran, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma
For the Respondent/s : Mr. Kumar Manish (SC 5)

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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
Hero Glamour Motorcycle bearing Registration No. BR-05Q-
1219, which has been seized in connection with Sangrampur
P.S. Case No. 108 of 2018 for the offences punishable under
Section 30(a) and 37(b) of the Bihar Prohibition and Excise
Act.

Learned counsel appearing for the petitioner



submits that a plain reading of the first information report would show that four people had gathered to have a drinking session. The petitioner was not present although his vehicle was found there but nothing was recovered from his motorcycle. He further submits that even when no recovery was made from the motorcycle in question, yet simply because it was standing at the place of occurrence that it has 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 the learned counsel appearing for the petitioner regarding absence of recovery from the motorcycle in question, rather the liquor in question was recovered from a place near which 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 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

