

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5658 of 2019

=====

Shobha Devi, Female, aged about 42 years, W/o Tilakar Chandar Sah,
Resident of Village Rampur, P.S. Araria (Bairgachhi), District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, the Excise Department,
Government of Bihar, Patna.
2. The Collector, Araria.
3. The Superintendent of Police, Araria.
4. The Deputy Superintendent of Police Araria.
5. The Station House Officer, Bousi Police Station, District- Araria.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Abhijeet Gautam, Advocate
For the Respondent/s : Mr.Vikash Kumar (SC11)

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 19-04-2019

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

The petitioner prays for provisional release of his Bajaj
Platina ES Motorcycle bearing registration No. BR-38L-2399,
Chassis No. MD2A 76AY4JRK54762, Engine No. PFYRJK
24503, which has been seized in connection with Bousi P.S.
Case No. 82 of 2018 for the offences punishable under Sections
272/273 of the Indian Penal Code and Sections 30(a) of the
Bihar Prohibition and Excise Act, 2016.



Learned counsel for the petitioner informs that although seizure list has reflected seizure of 20 liters of country made liquor but the F.I.R. explains the seizure from the kitchen of the petitioner and not from the motorcycle.

Learned counsel for the State submits that the F.I.R. also informs that on search from the dicky of the motorcycle that a polythene containing country made liquor was found. But the said submission is countered by learned counsel representing the petitioner to submit that no details of such seizure is mentioned either in the F.I.R. or in 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 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 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 this observations/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Nasimul/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24-04-2019
Transmission Date	N/A

