

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6254 of 2019

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Jai Prakash Singh Son of late Chandrika Singh@ Samarajo Singh, Resident of
Village- Dihri, P.S. Sandesh, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-Cum-Collector, Bhojpur at Ara.
3. The Assistant Excise Commissioner, Bhojpur at Ara.
4. The Superintendent of Excise, Bhojpur at Ara.
5. The Superintendent of Police, Bhojpur at Ara.
6. The Vehicle Inspector, Bhojpur at Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rama Kant Singh, Advocate
For the Respondent/s : Mr.Kumar Ravish, AC to GA I

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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 : 06-05-2019

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

The petitioner prays for provisional release of his Hero
Honda Splendor Plus Motorcycle bearing Registration No. BR-03E9456,
Chassis No. MBLHA10EJAHF 16268, Engine No. HA10EAAHF 16331
which has been seized in connection with Chandi P.S. Case No. 66 of
2017 for the offence punishable under Section 30(A) of the Bihar
Prohibition and Excise Act, 2016.



Learned counsel for the petitioner with reference to the seizure list submits that recovery is from an open space lying 200 yards from a primary school but not from the vehicle in question. Undisputedly, there is no recovery from the vehicle as it is also confirmed from the seizure list.

Mr. Kumar Ravish, learned AC to GA I opposing the prayer submits that country liquor was found from an open space but the vehicles were standing beside the place of recovery and there is justification for seizure of the vehicle.

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. [2018 (3) PLJR 403]***, we direct for release of the vehicle in question in favour of the petitioner within a fortnight, 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 District Magistrate-cum-Collector, Bhojpur at Ara 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 in the case of *Diwakar Kumar Singh* (supra).

With the observations/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

mrl./-

AFR/NAFR	NAFR
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