

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8457 of 2019

=====

Ramji Prasad Yadav @ Ramjee Yadaw, aged about 35 years, Male S/o Ram Kishore Yadav vill.- Banauta, P.s.- Jaleshar, Distt.- Mahotari (Nepal)

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Govt. of Bihar, Patna
2. The District Magistrate, Sitamarhi
3. The Superintendent of Police, Sitamarhi
4. The O/c Bela P.S. distt.- Sitamarhi
5. Ijamuddin Assistant Sub Inspector, Bela P.S., Distt.- Sitamarhi

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr. Hans Lal Kumar, Adv.

For the Respondent/s : Mr. Vikash Kumar (Sc11)

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-07-2019

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

The petitioner prays for provisional release of his Bajaj Discover motorcycle bearing registration No. G9P3497, Chassis No. MD2A1513Z3GWA21763 and Engine No. JZZWGA63521 which has been seized in connection with Bela P.S. Case No. 52/2018 for the offences punishable under Section 37(B)(c) of the Bihar Prohibition and Excise (Amendment) Act,



2016 and sections 341, 323, 307, 353, 290 of the Indian Penal Code.

It is submitted by learned counsel for the petitioner that the petitioner is the owner of the vehicle but at the relevant time it was being driven by the person who was in drunken condition and in such condition, the motorcycle has been seized. Undisputedly, there is no recovery from the motorcycle 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 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 motorcycle in question.

Since nothing has been recovered from the motorcycle, 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 observations/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.07.2019
Transmission Date	NA

