

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7534 of 2019

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Himanshu Kumar, S/o Dinesh Chaurasia, Resident of Village- Baghi, P.S. Nagar (Lohia Nagar), District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department at Patna.
2. The Divisional Commissioner, Excise Department, Munger Division at Munger.
3. The District Collector, Begusarai at Begusarai.
4. The Superintendent of Police, Begusarai at Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar, Adv.
For the Respondent/s : Mr. Vivek Prasad, GP-7

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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 : 16-05-2019

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

The petitioner prays for provisional release of his TVS Apache motorcycle bearing Registration No.BR09AB5461, Chasis No. MD634BE41J2LA5378 and Engine No.BE4LJ27A2245 which has been seized in connection with Muffasil P.S. Case No.36 of 2019 (District- Begusarai) for the offences punishable under sections 414 ad 290 of the Indian Penal Code read alongside the provisions of section 3a(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that there is no recovery from the vehicle in question. He has further stated that 1175 litres of Indian Made Foreign Liquor was recovered from the truck and since the vehicle in question was parked near the truck that



the same has been seized. Undisputedly, there is no recovery from the vehicle 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 14 days 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 as 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 the observation above, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

skpathak/-

AFR/NAFR	NAFR
CAV DATE	NA
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