

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8031 of 2019**

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Md. Aslam Son of Sharik(Ex Sarpanch), Resident of Village- Kara, Police Station- Obra, District- Aurangabad (Bihar), At Present- Kazipura Haji Kasam, Chawl No. 17 Ist Floor Room No. 19 Two Tanks Nagpada Mumbai Maharashtra-400008.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The District Magistrate, Aurangabad (Bihar).
3. The Superintendent of Police, Aurangabad, Bihar.
4. The S.H.O., Obra, Police Station- Aurangabad, Bihar.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Birendra Kumar Singh  
For the Respondent/s : Mr.Kumar Manish (Sc5)

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**and**

**HONOURABLE MR. JUSTICE PARTHA SARTHY**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)**

**Date : 28-06-2019**

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 CD Down Motorcycle bearing registration No. BR-2D-0174 Chassis No. 03E27F07903 and Engine No. 03E27E12401 which has been seized in connection with Obra P.S. Case No. 81 of 2018 for the offences punishable under Section 37(B) of the Bihar Prohibition and Excise Act, 2016.

The allegation against the petitioner is of drunken driving 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)**

Sushma/prakash

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 08.07.2019 |
| Transmission Date | NA         |



