

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8352 of 2019

Jagat Kumar Nirala Son of Harihar Bhagat @ Harihar Prasad Resident of Village-Tengrari, P.S.-Siwaipatti, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Collector-cum-District Magistrate, Muzaffarpur, District-Muzaffarpur.
4. The officer-in-charge of Siwaipatti Police Station, Muzaffarpur, District-Muzaffarpur.
5. The investigating Officer of Siwaipatti P.S. case no.16/18

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajeev Ranjan
For the Respondent/s : Mr.Vivek Prasad (Gp7)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 02-07-2019

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

The petitioner prays for provisional release of his motorcycle bearing registration No. BR06BC2329, Chassis No. MBLHA11ATG9J56109 and Engine No. HA11EJG9J22661 which has been seized in connection with Siwaipatti P.S. Case No. 16 of 2018 for the offences punishable under Sections 272 and 273/34 of the IPC and Sections 30(a), 38, 41 and 48 of the Bihar Prohibition and Excise Act, 2016.



Learned counsel for the petitioner submits that no recovery was made from the motorcycle in question rather simply because it was standing besides the truck from where 2982.6 litres of IMFL was recovered and that on suspicion the motorcycle of the petitioner was also seized. No confiscation proceeding has been initiated.

Having heard learned counsel for the parties and considering the submission that no recovery of any liquor was made from the motorcycle of the petitioner 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/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.07.2019
Transmission Date	NA

