

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7925 of 2019

=====

Sumesh Prasad Son of Jay Narayan Prasad Resident of Village-Patkhauli
Malkauli, Police Station-Bagaha (Patkhauli O.P.), District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna
2. The Excise Commissioner, Bihar, Patna
3. The District Magistrate, West Champaran at Bettiah.
4. The Superintendent of Police, West Champaran at Bettiah
5. The Superintendent of Excise, West Champaran at Bettiah
6. The S.H.O. Bagaha (Patkhauli) Police Station, District West Champaran

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Brij Kishor Mishra
For the Respondent/s : Mr.Anil Kumar Sinha (Ga1)

=====

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 Tempo
bearing registration No. BR22PA-0905, Chassis No.
MBX0003BFVB599049 and Engine No. R8B2943250 which has
been seized in connection with Bagaha (Patkhauli) P.S. Case No.
486 of 2018 for the offences punishable under Sections 30(a) and
37(b) of the Bihar Prohibition and Excise Act, 2016.



Learned counsel for the petitioner informs that a bare perusal of the seizure list accompanying the F.I.R. would confirm that no recovery was made from the Tempo in question rather 13 plastic bags of country liquor were recovered either from the person named in the seizure list cycle which belongs to the son of the petitioner.

Learned counsel for the State though opposes the prayer but agrees that the seizure list does not indicate any recovery from tempo.

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 tempo, 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 above, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	nafr
CAV DATE	na
Uploading Date	
Transmission Date	na

