

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8635 of 2019

1. Bhuti Chaudhari Son of Chanar Chaudhary, Resident of Village-Patarkha, Naurangiya, Police Station-Manuapul, District-West Champaran
2. Alok Chaudhari, Son of Vishwnath Chaudhari, Resident of Village-Patarkha, Police Station-Manuapul, District-West Champaran
3. Nand Lal Chaudhary Son of Gulab Chaudhary, Resident of Village-Patarkha, Police Station-Manuapul, District-West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department Government of Bihar, Patna
2. The District Magistrate, West Champaran at Bettiah
3. The Superintendent of Police Bettiah, West Champaran
4. The Officer In Charge Bettiah Mufasil (Manuapul O.P.) Police Station, District- West Champaran

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar No 7
For the Respondent/s : Mr.Kumar Manish (Sc5)

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 petitioners and learned counsel appearing on behalf of the State.

Three petitioners pray for provisional release of their motorcycles (Hero Splendor Pro Self new motorcycle, white colour TVS motorcycle and Hero Splendor Pro motorcycle) bearing registration No. BR22S-9857, Engine No. HA10ELEHE08378, Chassis No. MBLHA10A3EHE74096,



registration No. BR22J 5465, Engine No. DFSFD1345989, Chassis No. MD625MF58D1FS2443 and registration No. BR22Z-2425, Engine No. HA10ERGHK81726, Chassis No. MBLHA10CGGHKD 0130 respectively, which have been seized in connection with Bettiah Mufasil (Manuapul O.P.) Police Station Case No. 498 of 2018 for the offences punishable under sections 467,468,471 and 414 of the Indian Penal Code and Sections 30(A) and 30(B) of the Bihar Prohibition and Excise Act, 2016.

Mr. Sanjay Kumar No.7, learned counsel for the petitioners submit that while the motorcycle bearing Registration No. BR 22S-9857 has been seized merely on suspicion with no recovery of any liquor made from the said vehicle, the other two motorcycles have been seized because they were found standing in a house from where there has been a recovery of 5 litres of country liquor allegedly violating the provisions of the Bihar Prohibition of Excise Act.

Learned counsel for the petitioner submits that present writ petition is not in relation to the house in question rather it is restricted to the alleged seizure of the three motorcycles from which no recovery of any liquor has been made rather on mere suspicion that these motorcycles have been seized in absence of any recovery.



Learned State counsel has not been able to controvert this position because the seizure appended to the F.I.R. does not indicate any recovery from the vehicles rather whereas the motorcycle bearing Registration No.BR22S- 9857 was seized because it was lying in suspicious circumstances, the other two motorcycles were seized because they were standing in the house from where seizure of liquor took place. Undisputedly, there is no recovery from the motorcycles 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 vehicles in question in favour of the petitioners within a week on furnishing/production of the document showing the ownership of the vehicle and registration certificate in the name of the petitioners supporting the claim of the petitioners 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 motorcycles in question.



Since nothing has been recovered from the motorcycles, 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)

Bibhash

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.07.2019
Transmission Date	NA

