

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8430 of 2019

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Ajim Miya @ Azim Miya Son of Late Duli Miya @ Dulhe Miya Resident of
Village Satbhirwa, P.S. Majhauria, District West Champaran. Petitioner/s
Versus

1. The State of Bihar, through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate, West Champaran, Bettiah.
3. The Superintendent of Police, West Champaran, Bettiah.
4. The S.H.O., Chanpatiya, District West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Shrivastava
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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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 : 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 Hero
Splendor Motorcycle bearing registration No. BR22U1775, Chassis No.
MBLHA10BFFHA36975 and Engine No. HA10ERFHA91859 which
has been seized in connection with Chanpatia (Sirisia O.P) P.S. Case
No. 339 of 2018 for the offences punishable under sections 467, 468,
471, 414 of the Indian Penal Code and sections 30(A) and 30(B) of the
Bihar Prohibition and Excise Act, 2016.

Counsel for the petitioner submits that though there is no
recovery from the motorcycle in question but merely on suspicion
and on statement made by co-accused, the police case has been
registered and the motorcycle of the petitioner has been seized. He
submits that a number of persons have been made accused in the



police case including the person to whom the vehicle in question has been seized. The seizure list enclosed with the FIR does not record any recovery of liquor from the motorcycle.

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)

Prakash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.07.2019
Transmission Date	NA

