

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9086 of 2019

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Umesh Kumar Ray Son of Saryug Ray, Resident of Village- Nagar Panchayat
No. 12, Sandha Damber Bakhari, P.S.- Motipur District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Excise and Registration Department, Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The Senior Superintendent of Police, Muzaffarpur.
5. The Officer-in-Charge Motipur Police Station Muzaffarpur.
6. The Investigating Officer Motipur Police Station Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kumari Sujata Sinha, Advocate
For the Respondent/s : Mr.(Gal)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 20-08-2019

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. BR06BU2279 which has been seized in connection with Motipur P.S. Case No. 117 of 2019 for the offence punishable under sections 30(a), 38(1) (2), 41(1) and 37(a) (b) of the Bihar Prohibition and Excise Act, 2016.

It is submitted by learned counsel for the petitioner that his motorcycle has been seized while the same was parked near the shop where his son was taking wine. There is no recovery from the motorcycle as it is also confirmed from the seizure list.



The FIR confirms the statement of the petitioner regarding no recovery from the vehicle.

Having heard learned counsel for the parties and taking note of the fact that no recovery was made from the vehicle, in view of the legal position 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.

(Shivaji Pandey, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	30.08.2019
Transmission Date	

