

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8656 of 2019

Mahtab Alam Son of Manjur Alam Resident of Ruidhasa Khanka, Ward no. 23 P.S. Kishanganj, District-Kishanganj

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Patna, Bihar.
2. The Collector/ District Magistrate, Kishanganj
3. The Superintendent of Police Kishanganj
4. The Excise Superintendent of Police Kishanganj.
5. The Excise Inspector, Kishanganj, District-Kishanganj
6. The Officer Incharge, Kishanganj Police Station Kishanganj, Distirct-Kishanganj

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Amal Kumar Sinha
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 : 08-07-2019

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

The petitioner prays for provisional release of his motorcycle (Bajaj C.T. 100) bearing registration No. BR37L 8968, Chassis No. MD2A18AZ2GPG28623 and Engine No. DUZPGG83803 which has been seized in connection with Special Case No. 246 of 2018 arising out of Kishanganj P.S. Case No. 622 of 2018 for the offences punishable under Section 279, 337 and 338 of the Indian Penal Code and Sections 37(C) and 30(a) of the Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that there was a recovery of 500 ml. of counter made liquor from the pocket of the



petitioner and not from the motorcycle and in such condition, the motorcycle has been seized. Undisputedly, there is no recovery from the motorcycle 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 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)

Bibhash/-

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

