

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10251 of 2019

Subodh Kumar Mahto, Male, aged about 28 years, Son of Ram Kishun Mahto, Resident of Village-Harpur, Police Station-Khanpur, District-Samastipur. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna
2. The Excise Commissioner, Government of Bihar, Patna.
3. The District Magistrate, Samastipur.
4. The Senior Superintendent of Police Samastipur.
5. The Excise Superintendent, Samastipur
6. The Station House Officer, Wairsanagar Police Station, District-Samastipur. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad
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 : 05-08-2019

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

The petitioner prays for provisional release of his Pulsar 150 Twin Disc motorcycle bearing Chassis No. MD2A11CY3JRM46918 and Engine No. DHYRJM19751 which has been seized in connection with Warisnagar P.S. Case No. 176/2018 for the offences punishable under Sections 273 and 290 of the Indian Penal Code and 38, 41, 30(a), 37(B) and 37(D) of the Bihar Prohibition and Excise Act, 2016.

The allegation against the co-accused of the petitioner is of drunken driving 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)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.08.2019
Transmission Date	NA

