

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10164 of 2019

=====

Abhishek Sahay @ Abhishek @ Bikku S/o Vedpurari @ Devpurari Sahay,
Resident of Planko Shanti Awas, A Block, Flat No. 301, Boring Road, Pani
Tanki More, Opposite Kamini Centre, P.S.- Patliputra, District- Patna at
present H.no. 12, Lal Bahadur Shastri Marg, P.S.- Shastri Nagar, District-
Patna. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna.
4. The S.H.O. Patliputra Police Station, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Samrendra Kumar Jha
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 PARTHA SARTHY)

Date : 05-08-2019

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

The petitioner is owner of Bajaj Pulsar Motorcycle and prays
for provisional release of his vehicle bearing registration No.
JH01AB5001 which has been seized in connection with Patliputra P.S.
Case No. 392 of 2017 for the offences punishable under Sections 30(a)
and 37(a)(b) of the Bihar Prohibition and Excise Act, 2016.

Recovery of 3.75 litres of IMFL has been made from the bag
of the petitioner, which was on his back 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)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.8.19
Transmission Date	NA

