

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14416 of 2019

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Nishu Kumari Daughter of Ramji Yadav, wife of Dharmendra Yadav Resident of Village- Sarkuna, P.O.- Bharatpur, Police Station- Dulhin Bazar, District- Patna, at present resident of Village- Karauna, Police Station- Jehanabad, District- Jehanabad. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Patna.
4. The Superintendent of Police, Patna.
5. The Superintendent of Excise, Patna.
6. The S.H.O. Kadirganj Police Station, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sachida Nand Rai, Advocate
For the Respondent/s : Mr.Kumar Manish (Sc5)

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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 : 02-09-2019

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

The petitioner prays for provisional release of his Splendor Plus Motorcycle bearing registration No. BR56B2607 which has been seized in connection with Kadirganj P.S. Case No. 113 of 2018 for the offence punishable under section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is submitted by learned counsel for the petitioner that there is no recovery from his motorcycle. His motorcycle was only parked near the place from which the recovery has been made. 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.

(Shivaji Pandey, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

