

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19027 of 2018

Nilam Devi wife of Ratneshwar Kumar, resident of Village- Jhitkahiya
Shilaboalli, P.S. Hathauri, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Superintendent of Police, Muzaffarpur.
3. The Officer-in Charge of Hathauri, P.S. District Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Md. Anisur Rahman
For the Respondent/s	:	Mr. Vikash Kumar- SC11

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 01-04-2019

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

The petitioner prays for provisional release of his
Royal Enfield Bullet Motorcycle bearing registration No.
BR06BJ-4442, Chassis No. Engine No.
ME3U3S5C1HL536069, which has been seized in connection
with Hathauri P.S. Case No. 127 of 2018 for the offences
punishable under sections 272/273 of the Indian Penal Code
read along with side provisions under section 30(a) of the Bihar
Prohibition and Excise Act, 2016.



Learned counsel for the petitioner submits that in reference to the First Information Report, no recovery was made from the motorcycle in question rather the recovery is from a Tempo bearing Registration No. BR06PC-3877 from where 48 bottles of I.M.F.L. each containing 180 ml. were recovered. He thus submits that motorcycle of the petitioner has been seized merely on the basis of suspicion simply because it was standing at the place from where the recovery was made.

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 fortnight, 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 vehicle in question.

Since nothing has been recovered from the vehicle, 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 this observations/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.04.2019
Transmission Date	NA

