

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18490 of 2018

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Rupesh Kumar Singh S/o-Baban Singh, Resident of Village +P.O.-Aghaila
Mathia, P.s.-Mufassil Dhanauti, District-Siwan-841227.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Excise Saran Division Saran.
3. The District Magistrate, Siwan.
4. The Superintendent of Police, Siwan, District-Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Akshay Lal Pandit
For the Respondent/s : Mr.Anil Kumar Sinha -GA1

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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 Mr. S. Azim, learned counsel appearing for
the petitioner and Mr. Pawan Kumar, learned AC to GA 1
appearing for the State.

The petitioner prays for provisional release of
Hero Honda Passion XPro bearing Registration No. BR-
29AA-3911, Engine No. JA12ABHGA03004, Chasis No.
MBLJA12ACHGA01741, which has been seized in connection
with dhanauti Muffasil P.S. Case No. 293 of 2018 for the
offences punishable under Sections 272 and 273 of the
Indian Penal Code and sections 30(A) and 38(i) of the Bihar



Prohibition and Excise Act.

Learned counsel appearing for the petitioner submits that a plain reading of the first information report would confirm that no recovery was made from the motorcycle in question, rather the liquor was recovered from the bushes near the premise. He further submits that even when no recovery was made from the motorcycle in question, yet simply because it was standing nearby that it has been seized.

Mr. Pawan Kumar, learned counsel appearing for the State opposing the prayer submits that since the motorcycle in question was being used for the purpose and was standing near the place of recovery, hence the seizure.

We have heard learned counsel for the parties, perused the records and also examined the first information report which confirms the submissions made by Mr. Azim regarding absence of recovery from the motorcycle in question, rather the liquor in question was recovered from the bushes near which the vehicle in question was standing.

In such circumstances and taking note of the legal position 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 period of 14 days of receipt/production of a copy of this order subject to production of the document showing the ownership of the vehicle and registration certificate by the petitioner.

Since no recovery was made from the vehicle in question, there is no question of initiation of confiscation proceeding in respect of the vehicle in question nor there is any requirement of furnishing any surety as well.

With this observation/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
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