

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22129 of 2018

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Roshan Kumar son of Bijay Chaurasia, Resident of Village- Maheshkhunt,
Police Station- Maheshkhunt, District- Khagaria.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Excise Department,
Government of Bihar, Secretariat, Patna.
2. The Collector, Khagaria.
3. The Excise Superintendent, Khagaria.
4. The Motor Vehicle, Inspector, District Khagaria.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Jai Kishor Poddar, Adv.
For the Respondent/s : Mr. Vikash Kumar, SC 11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 22-04-2019

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

The petitioner prays for provisional release of his HS.
Apache RTR160 motorcycle bearing registration No. BR34L3279,
Chassis No. MD. 634BE41H2-F00267 and Engine No. BE4FH2100862
which has been seized in connection with Mansi P.S. Case No. 99/2018
for the offences punishable under Section 30(a) of the Bihar Prohibition
and Excise Act, 2016.

It is the contention of learned counsel for the petitioner that
there was no recovery from the motorcycle, Mr. Chaturvedi, learned AC
to SC-11, submits that the petitioner alongwith others were engaged in
drinking liquor and it is on seeing the police party that all of them
managed to escape but the vehicle was apprehended. He submits that
from the place of occurrence there was a recovery of two bottles of
Royal Stag whisky each containing 750 ml. of which one of the bottles
had been partially used in drinking session.



Having heard learned counsel for the parties and considering the undisputed fact that no recovery was made from the motorcycle in question following the legal position settled 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)

(Anjani Kumar Sharan, J)

Archana/
Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.05.2019
Transmission Date	NA

