

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.205 of 2019

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1. Sandip Paswan and Anr Son of Sri Suresh Paswan R/o Ward No.8,Mali Nagar,P.S.. Pusa,Distt.-Samastipur
 2. Sudhanshu Kumar @ Moti Son of Late Ram Lalit Prasad Singh R/o Village-Sundarpur,Ratwara,P.S. Piar,Distt.-Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
2. The District Magistrate,Muzaffarpur
3. The Superintendent of Police, Muzaffarpur
4. The Station house Officer of Piar Police Station,Distt.-Muzaffarpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha, Adv.
For the Respondent/s : Mr.Anil Kr. Sinha- GA1

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 10-05-2019

Heard Mr. Ashok Kumar Jha, learned counsel for the petitioner and learned counsel representing the State.

Petitioner has prayed for provisional release of the Motorcycle Apache RTR 160 Chasis No. MD634 BE47 H2H31013 Engine No. BE4HH2130316 as well as cash of Rs.70,000/- together with Oppo mobile phone belongs to the petitioner No.2 which has been seized by the police in connection with Piar (Hattha O.P.) P.S. Case No. 99 of 2018 registered for the



offence under Sections 272, 273, 120B and 414 of I.P.C. and 30(a),35(a),38,41 of Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that while motorcycle belongs to the petitioner No.1, the cash and the mobile phone was seized from the possession of the petitioner No.2. Learned counsel further submits that there is no recovery of illicit liquor from the motorcycle or the possession of petitioner No.2 rather it is because the motorcycle was standing near a vehicle which was loaded with liquor that on a suspicion that the motorcycle has been seized. He further submits that there is no provision under the Bihar Excise and Prohibition Act, 2016 which empowers the excise authorities to seize either cash or mobile. It is submitted that no confiscation proceeding is pending in respect of the vehicle in question.

Considering the facts and circumstances of the case and also the judgment of the Hon'ble Division Bench 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**, the designated court below is directed to ensure the release the motorcycle in question forthwith in favour of the petitioner No.1 as well as cash of Rs.70,000/- together with Oppo mobile phone in favour of the petitioner No.2 within



14 days of submission of the document showing the ownership of the vehicle and registration certificate of the motorcycle in the name of petitioner No.1.

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.

Learned counsel on instructions has submitted that the vehicle is lying in the local police station and some of the parts have been dismantled.

The concerned Officer in charge is directed to ensure that the vehicle is released in the same condition in which the seizure has been made.

The writ petition is allowed with directions above.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.05.2019
Transmission Date	NA

