

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20205 of 2019

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Lalan Kumar Yadav, S/o Shiv Lal Prasad, Resident of Mohalla- Vivek Vihar Colony, O.P., M.I.G., 152, Hanuman Nagar, Patna, Bihar-800020

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Excise, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Excise, Govt. of Bihar, Patna
3. The District Magistrate, Patna
4. The Senior Superintendent of Police, Patna
5. The Superintendent of Police City, Patna
6. The Deputy Superintendent of Police Sadar, Patna
7. The Station House Officer Kotwali, Patna
8. The Investigating Officer Dharm Nath Rai, Sub Inspector of Police, Kotwali Police Station, Kotwali, Patna (Kotwali P.S. Case No. 853 of 2018)

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prem Ranjan Kumar, Adv.
For the Respondent/s : Mr.Kumar Manish (SC5)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 17-12-2019

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

The petitioner prays for provisional release of his Pulsar NS 200 Motorcycle bearing registration No. BR01DZ 7057, which has been seized in connection with Kotwali P.S. Case No. 853 of 2018 for the offences punishable under Sections 37 (b) (c) of the Bihar Prohibition and Excise Act.



The allegation against the petitioner is of drunken driving and in such condition, the vehicle has been seized. Undisputedly, there is no recovery from the vehicle 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 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. The confiscation proceeding itself is a futile exercise because there is no recovery of liquor.



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

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

amitkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
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