

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20262 of 2019

=====

Amit Kumar Son of Vishon Prasad Residence of Village- Kathpul South
Mandiri, P.S. Budha Colony, Dist.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna.
2. The Principal Secretary Excise Department, Govt. of Bihar, Patna.
3. The District Magistrate Patna.
4. The Superintendent of Police Patna.
5. The Officer in- charge Rupashpur Police Station, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Brij Bihari Tiwary

For the Respondent/s : Mr.Vivek Prasad (Gp7)

=====

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
TVS Star City Motorcycle bearing registration No.
BR01CR6817, which has been seized in connection with
Rupaspur P.S. Case No. 288 of 2018 for the offences punishable
under Section 279 of the Indian Penal Code and Section 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)

devendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.01.2020
Transmission Date	NA

