

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17059 of 2018

Sanjay Prasad Yadav Son of Late Shiv Nath Yadav, resident of Village-
Birbinwa, P.S. District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise & Prohibition, Government of Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Excise Superintendent, Gopalganj.
5. The Officer-in-charge, Gopalganj Town Police Station, District- Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dhramveer
For the Respondent/s : Mr. Vikash Kumar -SC11

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 04-02-2019

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

The petitioner prays for provisional release of his motorcycle bearing registration No. BR-28Q-4147, Chassis No. MBLHA10CGGHH32012, which has been seized in connection with Gopalganj Town P.S. Case No. 427 of 2017 for the offences punishable under sections 30(a), 41(1), 37(b) 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 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 Officer-in-Charge, Gopalganj Town Police Station, Gopalganj as 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. So far as petitioner is concerned, the confiscation proceeding itself is a futile exercise because there is no recovery.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.02.2019
Transmission Date	NA

