

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2630 of 2018

Arising Out of PS. Case No.-16 Year-2018 Thana- SIWAIPATTI District- Muzaffarpur

Arbind Kumar @ Arvind Kumar, son of Prahalad Prasad @ Prahalad Sah,
resident of village – Tengrari, P.S. - Siwaipatti, District – Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Collector – cum – District Magistrate, Muzaffarpur, District – Muzaffarpur.
4. The Officer-in-Charge of Siwaipatti Police Station, Muzaffarpur, District – Muzaffarpur.
5. The Investigating Officer of Siwaipatti P.S. Case No. 16/18.

... .. Respondents

Appearance :

For the Petitioner/s : Ms.Bela Singh, Advocate
For the Respondent/s : Mr.Vivek Prasad GP 7

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 09-02-2021 Learned counsel for the petitioner submits that motorcycle in question has been seized by the Sub-Inspector of Police, Aurangjeb Alam. Even though there is no recovery of illicit liquor from the vehicle in question.

Learned counsel submits that the motorcycle has been seized alleging that it was being used in connection with illegal trade of liquor, but the fact is that no liquor was recovered from the vehicle, therefore in terms of the judgment of the Hon'ble Division Bench of 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, the vehicle in question is not liable to be confiscated and for this reason till date no confiscation proceeding has been initiated against the vehicle.

Learned counsel submits that no notice of confiscation has ever been served upon the petitioner, but the vehicle is lying in the police station for the last approximately three years and during this period the vehicle has remained losing its road worthiness and virtually become junked which is neither in the interest of the State nor in the interest of the petitioner.

Learned counsel submits that there being no proceeding under the Bihar Prohibition & Excise Act against the vehicle in question, the very seizure of the vehicle is illegal.

Mr. Vivek Prasad, learned G.P. 7 has appeared in this case, he has got instruction and informed this Court that in fact keeping in view the Hon'ble Division Bench Judgment of this Court in the case of **Diwakar Kumar Singh (supra)** since no liquor has been recovered from the vehicle in question, the authorities have not initiated any confiscation proceeding.

Learned counsel submits that in such circumstance since no confiscation proceeding is pending against the vehicle in question if the petitioner approaches the Officer-in-Charge of



the concerned police station, the vehicle in question will be released by the Officer-in-Charge without any delay.

In the aforesaid view of the matter, learned counsel for the petitioner submits that the writ application may be disposed of as the petitioner would approach the Officer-in-Charge of the concerned police station at the earliest for purpose of release of the vehicle in question.

This writ application is thus disposed off in view of the statements made on behalf of the State.

Let the petitioner appear before the Officer-in-Charge of the concerned police station on 17.02.2021 for release of the vehicle in question and on such request of the petitioner the Officer-in-Charge of the police station shall release the vehicle in question in terms of the statement made by the learned Government Advocate.

This Writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/Arbind

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

