

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2398 of 2018

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Baidya Nath Paswan, S/o Mahavir Paswan, Resident of Village- Gharbhara
Anchal West Muzaffarpur, P.S.- Bochaha, Distt- Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar through Secretary Prohibition Excise and Registration Department Govt. of Bihar, Patna.
2. The District Magistrate, Samastipur.
3. The Superintendent of Police, Samastipur.
4. The Superintendent of Excise, Samastipur.
5. The S.H.O. N.H. Bangra Police Station Distt- Samastipur.
6. The Investigation Officer N.H. Bangra P.S. Case No.11/18 Distt- Samastipur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Surya Narayan Roy, Advocate
For the Respondent/s : Mr. Kumar Manish (SC-5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 10-10-2018 In view of Section 60 of the Bihar Prohibition and Excise Act, 2016 no application for release would be maintainable in the learned Court below and, therefore, when an application for release was filed by the petitioner in the Court of Sessions-Judge if has been rightly rejected and rightly so.

The petitioner has, however, approached this Court in its extraordinary writ jurisdiction for release of the vehicle JEEP bearing Registration No. BR 06PD/3742 in connection with NH Bangara P.S. Case No. 11/ 2018 dated 16.02.2018 for the offences under Sections 272, 273/34 of the Indian Penal Code and under



Sections 30, 38 and 37 (c) of the Bihar Prohibition Excise Act, 2016.

Learned counsel for the petitioner submits that the petitioner is ready to abide by the terms and conditions which may be imposed by this Court for the purpose of release.

Considering the facts and circumstances wherein it is stated that the vehicle has been seized on the allegation that 4.5 ml of India Made Liquor has been recovered from the said vehicle and that no confiscation proceeding has been initiated in respect of the vehicle in question, following the decision of the Hon'ble Division Bench of this Court, this Court would direct provisional release of the vehicle in connection with NH Bangara P.S. Case No. 11/ 2018 dated 16.02.2018 on the petitioner furnishing two sureties of the like amount to the satisfaction of the learned Court below to the extent of the value of the vehicle indicated in the Insurance document together with the document of ownership of registration in favour of the petitioner.

The order of provisional release is, however, subject to the other and further undertaking to be submitted by the petitioner in the learned Court below as follows:-

- (i) That the vehicle in question is not involved in any other offence of similar nature in past and shall not be



involved in the nature of the offence in future.

- (ii) That the petitioner shall not create any third party right or interest in respect of the vehicle in question.
- (iii) That the petitioner shall produce the vehicle as and when required by the learned Court below/authority concerned.

Prior to release of the vehicle a Panchnama shall be prepared which will be kept on record for future use in course of trial.

The Vehicle be released within one week from the date of furnishing surety and the undertaking as indicated above.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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