

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2795 of 2017

=====

1. Rakesh Mishra S/o Late Radha Mohan Mishra
2. Suresh Mishra S/o Late Radha Mohan Mishra Both are residents of
Village - Patahi, P.S. - Patahi, District - East Champaran.

.... Petitioners

Versus

1. The State of Bihar through Principal Secretary, Department of Excise,
Bihar at Patna.
2. The District Magistrate, East Champaran.
3. The S.H.O. Pakridayal Police Station, Pakridayal, District - East
Champaran.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad
For the Respondent/s : Mr. Anil Kumar Sinha (Ga-1)

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3. 16-02-2018 Heard learned counsel for the petitioners and
learned counsel for the State.

Petitioners have prayed for release of the Hero
Honda Motorcycles (newly purchased) bearing Chasis No.
MD62IDF19H2C07929, Engine No. DP1CH2021189 and
another Motorcycle bearing registration no. B.R.-55A-
5394 in favour of the petitioners in connection with
Pakridayal P.S. Case No. 102/2017 for the offences under
Sections 272/273 of the Indian Penal Code and 30, 34, 38
of Bihar Prohibition and Excise Act, 2016.



Learned counsel for the petitioners submits that the two motorcycles which have been seized in the present case, one of the motorcycle has no registration number because it has been newly purchased, it is stated that 1.4 litre country made liquor was recovered from the said motorcycle. In another motorcycle bearing registration no. BR-55A-5394 (wrongly typed as BR-55A-6394), the allegation is that two bottles of illicit liquor were found.

It is stated that till date no confiscation proceeding has been initiated.

Learned counsel for the State is present and submits that the document showing ownership of the vehicle in favour of the petitioners are not enclosed with the application. Further there is no statement that the vehicles in question have not been confiscated.

Learned counsel for the petitioners relies upon a Division Bench order of this Court in L.P.A. No. 1647 of 2015 and order dated 29.08.2017 passed in Cr.W.J.C. No. 1289 of 2017 by a co-ordinate Bench of this Court and submits that the petitioners are ready and willing to abide by the terms and conditions which may be imposed by this Court.



Having considered the submissions advanced on behalf of the parties, pending finalization or initiation of the confiscation proceeding, this Court would direct to provisional release of the Hero Honda Motorcycles (newly purchased) bearing Chasis No. MD62IDF19H2C07929, Engine No. DP1CH2021189 and another Motorcycle bearing registration no. B.R.-55A-5394 on production of documents of ownership and purchase invoice in respect of un-registered vehicle in favour of the petitioner and document of ownership and registration in favour of the petitioner in respect of second motorcycle, both subject to the following conditions: -

(i) Petitioners shall furnish a surety bond of Rs. 60,000/- (sixty thousand only) with two sureties of the like amount each to the satisfaction of the learned Court below or the Collector cum District Magistrate, Motihari as the case may be for each of the motorcycle.

(ii) Petitioners shall furnish an undertaking that they would not alienate or encumber the vehicles or deal with them adverse to the interest of the State and shall produce the vehicles before the court below and/or the Collector-cum-District Magistrate, Motihari, as and when



directed.

(iii) A photograph of the vehicles shall be taken and panchnama be also prepared, certified and be kept on record in accordance with law.

This application is, accordingly, disposed off.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

U		T	
---	--	---	--

