

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2269 of 2017
Arising out of Raghunathpur P.S. Case No.158 of 2016, District-Siwan

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1. Bhola Singh S/o Visheshar Singh R/o Vill - Sachani, P.S. Raghunathpur,
Dist. - Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary.
2. The District Magistrate, Siwan.
3. The Superintendent of Excise Department, Siwan.
4. The Officer in Charge - Raghunathpur, Police Station Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary

For the Respondent/s : Mr. Kumar Manish (SC-5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD

ORAL ORDER

4 25-01-2018 Heard learned counsel for the petitioner and learned

counsel representing the State.

Learned counsel for the petitioner submits that he has already filed an application for withdrawal of the application for release of the vehicle before the court below. Learned counsel submits that the application for release of the vehicle filed before the court below is misconceived because under the provisions of the Bihar Prohibition and Excise Act, 2016 the application itself is not maintainable. Learned counsel submits that admittedly no confiscation proceeding has been initiated and the vehicle is still lying in open in the premises of the police station.



On the other hand, learned counsel representing the State submits that the case has been lodged bearing Raghunathpur P.S. Case No.158 of 2016, District-Siwan under Section 414 of the Indian Penal Code as also under Section 37(b) of the Bihar Excise Case, 2016 and under the provisions of the Arms Act. However, he submits that in the said case petitioner is not an accused.

It is the case of the petitioner is that the vehicle Bajaj Pulser motorcycle bearing Reg. No.BR-29 V 5552, Engine No.DHZWEB67322, Chesis No.MD2A11CZ5EWB32223 was lying at the road side of the police station without their being any allegation of participation of vehicle in commission of any crime. Nothing incriminating has been recovered from the motorcycle.

In the facts and circumstances, let the vehicle of the petitioner be provisionally released on production of proof of ownership and registration of the vehicle in his favour subject to the following conditions:-

- (i) Petitioner shall furnish surety bond of Rs.50,000/- (fifty thousand) (not in form of bank guarantee or cash) with two sureties of the like amount to the satisfaction of court below or the authority concerned.



(ii) The petitioner shall also give an undertaking that he will not deal with the vehicle in question and shall not alienate or encumber the same creating any kind of adverse interest against the interest of the State, he will not use the vehicle for any illegal purpose and as and when required, he will produce the vehicle in question before the competent court/authority.

(iii) At the time of release, the concerned authority/court shall get prepared a photograph duly certified in presence of the petitioner and panchnama of the vehicle in question shall also be prepared and keep the same on record which may be used as secondary evidence.

(iv) Petitioner undertakes not to challenge the said photograph and panchnama so prepared in his presence at the time of release of vehicle in question for use in course of trial or the confiscation proceeding, as the case may be.



The application stands disposed of.

(Rajeev Ranjan Prasad, J)

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