

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1274 of 2018

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1. Pintu Kumar Gupta S/o Late Ishwar Nath Sah R/o Village - Gopalapur,
P.S. - Nokha, District - Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar, through the District Magistrate, Rohtas.
2. The Assistant Excise Commissioner, Rohtas at Sasaram.
3. The District Magistrate, Rohtas at Sasaram.
4. Shri Shashi Bhushan Prasad, the Police Sub Inspector-cum-SHO, Nokha,
P.S., District Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dineshwar Mishra

For the Respondent/s : Mr. Vivek Prasad (Gp 7)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD

ORAL ORDER

2 04-05-2018 It has been submitted that the bike Passion Pro bearing Registration No. BR 03N 3672 of the petitioner has been seized in connection with Nokha P.S. Case No. 291 of 2017 under Section 30(A) of the Bihar Prohibition and Excise Act, 2016 only on the basis of confessional statement of the co-accused. Nothing has been recovered from the vehicle in question. The petitioner is also not an accused in the First Information Report.

Learned counsel for the State is present.

Considering the facts and circumstances that the petitioner is not an accused and that there is no recovery of illicit liquor from the vehicle in question, let the vehicle of the petitioner be released provisionally within one week from the date of



production of proof of ownership and registration of the vehicle in favour of the petitioner subject to the following conditions:-

(i) Petitioner shall furnish surety bond of Rs. 60,000/- (Sixty Thousand) (not in form of bank guarantee or cash) with two sureties of the like amount to the satisfaction of District Magistrate, Rohtas at Sasaram/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 shall undertake not to challenge the



said photograph and panchnama so prepared in his presence at the time of release ohf vehicle in question for use in course of trial or the confiscation proceeding, as the case may be.

It is made clear that before initiation of any confiscation proceeding the District Magistrate shall consider the preliminary issue as to whether in view of Section 56 of the Bihar Prohibition and Excise Act, 2016 a confiscation proceeding may be initiated in respect of a vehicle from which there is no recovery of illicit liquor.

The application stands disposed of.

(Rajeev Ranjan Prasad, J.)

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