

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1021 of 2018

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1. Umashankar Kumar, Son of Mahendra Yadav, Resident of Moh-Gangjala, Ward No.16, P.S.- Sadar, District- Saharsa.
2. Birju Kumar Choudhary, Son of Rohit Choudhary, Resident of Village-Tulsiyahi, Ward No.1, P.S.- Bihra, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar, Through Inspector General of Excise, Patna.
2. The District Magistrate, Saharsa.
3. The Excise Superintendent, Saharsa.
4. Station House Officer, Sour Bazar (Bajinathpur) Police Station, District-Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar
For the Respondent/s : Mr. Kumar Manish (Sc-5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 04-05-2018 Heard learned counsel for the petitioners and learned counsel representing the State.

Petitioners have prayed for release of the vehicles Hero Glamour Motorcycle bearing Reg. No. BR-19J-1353 and TVS Victor Motorcycle bearing Reg.No.BR-19J-9747, which have been seized by the police in connection with Sour Bazar (Bajinathpur) P.S. Case No.469/17, District-Saharsa for the offence under Section 37(b) of the Bihar Prohibition and Excise Act, 2016. It is stated that there is no recovery of illicit liquor from the vehicle in question, rather the petitioners were found in drunken condition.



Learned counsel for the petitioners submits that the petitioners are ready and willing to abide by the terms and conditions which may be imposed by this Court for provisional release of the vehicles in question.

Considering the facts and circumstances, pending initiation or finalization of the confiscation proceeding, let the vehicles of the petitioners be released provisionally within one week from the date of production of proof of ownership and registration of the vehicle in favour of the petitioners subject to the following conditions:-

- (i) Petitioners shall furnish surety bond of Rs.60,000/- (sixty thousand) (not in form of bank guarantee or cash) for each motorcycle with two sureties of the like amount to the satisfaction of District Magistrate, Saharsa/authority concerned.
- (ii) The petitioners shall also give an undertaking that they will not deal with the vehicles in question and shall not alienate or encumber the same creating any kind of adverse interest against the interest of the State, they will not use the vehicles for any illegal purpose and as and when required, they will produce the vehicles 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 petitioners and panchnama of the vehicles in question shall also be prepared and keep the same on record which may be used as secondary evidence.

(iv) Petitioners shall undertake not to challenge the said photograph and panchnama so prepared in their presence at the time of release of vehicles 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.

Arvind/-

(Rajeev Ranjan Prasad, J)

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