

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2748 of 2017

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Kamlesh Kumar S/o Chhotelal Mahto, R/o Bheriya Rahika, P.S.- Katihar
Sahayak, Distt.- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary, Excise Department, Patna, Bihar.
2. The District Magistrate, Purnia.
3. The Superintendent of Police, Purnia.
4. The S.H.O. Baisi, P.S., Purnia.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh
For the Respondent/s : Mr. Vikash Kumar (SC11)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD
ORAL ORDER

2 08-01-2018 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner has prayed for release of the vehicle (TVS
Motorcycle) bearing Reg. No. BR-39R-5204 which has been
seized by the police in connection with Baisi P.S. Case No.217 of
2017 for the offence under Section 272 of the I.P.C. and Section
30(A) of the Bihar Prohibition and Excise Act, 2016. It is alleged
that 5 litres and 120 ml illegal wine of different kind along with
mobiles were seized from the said vehicle.

Learned counsel for the petitioner relies upon a
Division Bench order of this Court in LPA No.1647 of 2015 and
other orders passed by a coordinate Bench of this Court and



submits that the petitioner is ready and willing to abide by the terms and conditions which may be imposed by this Court.

Let the vehicle of the petitioner be released provisionally on production of proof of ownership and registration of the vehicle in his favour subject to the following conditions:-

(i) Petitioner shall furnish a security in form of a bank guarantee or deposit of title deeds of immovable property situated within the jurisdiction of the concerned court/authority or any other security of like nature valued at Rs.50,000/- (fifty thousand) 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) A photograph of the vehicle shall be taken and panchnama be also prepared and kept on record.



It shall be subject to result of the decision in LPA No.1647 of 2015 where a question as to whether an executive can pass an order of confiscation is pending consideration.

The application stands disposed of.

(Rajeev Ranjan Prasad, J)

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