

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1173 of 2018

Arising Out of PS. Case No.-604 Year-2017 Thana- GOVERNMENT OFFICIAL COMP.
District- Saharsa

Prabhas Kumar S/o Vakil Yadav, R/o Vill.- Gamhariya, P.S.- Saur Bazar,
District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The District Magistrate, District- Saharsa.
3. The Superintendent of Police, District- Saharsa.
4. The S.H.O. of Sour Bazar, District- Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pramod Mishra, Adv.
For the Respondent/s	:	Mr. Anil Kumar Sinha (Ga1)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-05-2018 Heard the learned counsel for the petitioner and the
learned counsel representing the State.

Learned counsel for the petitioner does not pray for
any other relief save and except the prayer for release of the
motorcycle in question.

In this view of the matter, the prayer for quashing of
the first information report and challenge to the initiation of
confiscation proceeding are not pressed. It is stated that
petitioner was driving the vehicle in a drunken condition and no
illicit liquor has been recovered from the vehicle in question.
The confiscation proceeding is still pending with the District
Magistrate, Madhepura. Learned counsel submits that the



petitioner is ready and willing to abide by the terms and conditions which may be imposed by this Court for provisional release of the motorcycle.

Learned counsel for the State is present.

Considering the submissions, made on behalf of the petitioner, and finding that the petitioner is seeking only provisional release of the motorcycle during pendency of the confiscation proceeding, this Court directs provisional release of motorcycle, bearing registration no. BR-43M-0676 on the petitioner's producing the document of ownership and registration in his favour along with two sureties (not in form of cash or bank guarantee) to the extent of value of Rs.60,000/- (rupees sixty thousand) to the satisfaction of the District Magistrate, Madhepura. The provisional release will be subject to the condition that the petitioner shall not transfer his vehicle in question in favour of any third party creating any adverse interest to the interest of the State and as and when required he will produce the vehicle in question before the authority concerned. Before release of the vehicle a Panchanama shall also be prepared which will be certified and kept on record. The petitioner undertakes not to challenge secondary evidence.

This application stands **disposed off** accordingly.



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.

(Rajeev Ranjan Prasad, J)

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