

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.378 of 2018

Arising Out of PS.Case No. -null Year- null Thana -null District- VAISHALI(HAJIPUR)

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Harendra Kumar S/o Late Jagarnath Das, R/o Village- Rahimpur, P.S.- Bidupur,
District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar Through Its Principal Secretary, Excise Department, Govt. of Bihar, Old Secretariat, Patna .
2. The Director General of Police, Old Secretariat, Patna.
3. The Superintendent of Police Vaishali.
4. The District Magistrate, Vaishali.
5. Officer Incharge, Bidpur, District- Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vibhakar Kumar, Advocate

For the Respondent/s : Mr. Vikash Kumar, SC – 11

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 20-04-2018

Heard learned counsel for the petitioner and
learned counsel representing the State.

Petitioner has prayed for release of the vehicle
(Motorcycle) bearing registration no. BHR-31E/01157 in
favour of the petitioner in connection with Excise Case No.
C2A 227/2017 for the offences under Section 30(a) of Bihar
Prohibition and Excise Act, 2016.

It is submitted that there is no recovery from the
vehicle in question. The petitioner is said to have been found
in drunken condition.

Learned counsel for the petitioner 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 vehicle in question.

In the facts and circumstances, let the aforesaid



vehicle (Motorcycle) 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. 60,000/- (Sixty Thousand) (not in form of bank guarantee or cash) with two sureties of the like amount to the satisfaction of the District Magistrate, Vaishali /concerned authority.

(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.

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.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
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