

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1619 of 2018

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Vijay Yadav son of Koko Yadav resident of Village- Sapha, Police Station- Maheshkhunt, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department Bihar, Patna.
2. The District Magistrate, Khagaria, District- Khagaria.
3. The Superintendent of Police, Khagaria, District- Khagaria.
4. The Inspector of Police-cum- S.H.O. Gogri Police Station, District- Khagaria.
5. Sri Birendra Prasad son of Sitaram Yadav, resident of Village- Basudeopur, Police Station- Gogri, District Khagaria and the informant of Gogri P.S. Case No. 21/2018 dated 20.1.2018.
6. Sri Jagarnath Singh son of not known S.I. of Gogri Police Station, District- Khagaria and the Investigating Officer of Gogri P.S. Case No. 21/2018 dated 20.1.2018.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 25-07-2018 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner has prayed for release of the vehicle Tempo (Auto), bearing Reg. No. BR34P-3099, which has been seized by the police in connection with Gogri P.S. Case No. 21 of 2018, District- Khagaria for the offence under Sections 279, 337 and 427 of the Bihar Prohibition and Excise Act, 2016. The vehicle in question is said to have been seized when the petitioner was driving the same in drunken condition and had been driving the vehicle negligently and dashed one Tempo.



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.

Considering the facts and circumstances, pending initiation or finalization of the confiscation proceeding, 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 (not in form of bank guarantee or cash) for the value of the vehicle in question as indicated in the insurance document with two sureties of the like amount to the satisfaction of District Magistrate, Khagaria/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 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)

Arvind/R.R.Ojha/Ved

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