

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1404 of 2018

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Deepak Kumar Nirala, Son of Jaikishore Mandal, Resident of Village-Supaul, Ward No. 12, P.S. and District- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Supaul.
2. The District Magistrate, Supaul, District- Supaul.
3. The Superintendent of Police, Supaul, District- Supaul.
4. The Excise Superintendent, Supaul, District- Supaul.
5. Sri Rajeshwar Singh , son of not known, the Inspector of Police-cum-S.H.O. Supaul Police Station, District- Supaul.
6. Sri Harendra Mishra, Son of not Known, Sub-Inspector of Police Supaul Police Station, District Supaul and informant of Supaul P.S. Case No. 670/17 dated 06.11.2017.
7. Sri Shashidhar Singh, Son of not known, The sub-Inspector of Police, Supaul Police Station, District- Supaul and the Investigating Officer of Supaul, P.S. Case NO. 670/17 dated 06.11.2017.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhim Kumar Yadav, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 07-09-2018 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner has prayed for release of the vehicle Motorcycle namely TVS Star City Black and White bearing Engine No.FF1FHIX 65355 and Chasis No.MD625FF15H1F51720, which has been seized by the police in connection with Supaul P.S. Case No.670 of 2017, District-Supaul for the offence under Sections 30A, 37A/37C of the Bihar Prohibition and Excise Act, 2016. It is the submission of the



petitioner that the vehicle in question has been seized in connection with the Excise Case even as the petitioner was found in a 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.

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, Supaul/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 off.

(Rajeev Ranjan Prasad, J)

R.R.Ojha.

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