

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1797 of 2018

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Sunny Kumar, Son of Jai Prakash Gupta, Resident of
Mohalla- Pakrail Bindtoli, P.S.- Maheshkhut, District-
Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary,
Registration, Excise And Prohibition Department, Govt.
of Bihar, Patna.
2. The District Magistrate-cum-Collector, Khagaria.
3. The Superintendent of Police, District- Khagaria.
4. The Officer-in-Charge, P.S.- Chautham, Maheshkhut,
District- Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lakshmi Kant Tiwary

For the Respondent/s : Mr. Anil Kumar Sinha (Ga1)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 31-07-2018 The petitioner seeks release of his Splendor Plus
Motorcycle bearing Reg. No. BR-34L-5868 which has been
seized in connection with Chautham P.S. Case No. 28 of 2018
dated 28.02.2018 instituted for the offence under Section
30(a) of the Bihar Prohibition and Excise Act, 2016.

It has been submitted on behalf of the petitioner that
he is ready and willing to abide by the terms and conditions
which may be imposed by this Court for the provisional
release of the vehicle in question.

The provisions under Sections 56, 57, 58 and 60 of
the Bihar Prohibition and Excise Act, 2016 relating to



confiscation is under challenge and the matter is pending consideration before a larger Bench in Cr. W.J.C. No. 2446 of 2017 (Rahul Kumar @ Rahul Vs. The State of Bihar & Ors.).

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) The petitioner shall furnish surety in form of a bank guarantee or by deposit of original title deeds of immovable property lying within the jurisdiction of the authority concerned or any other security of like nature valued at Rs. 1,00,000/- (Rupees one Lakh) to the satisfaction of the 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) The petitioner shall undertake not to challenge the said photograph and *panchnama* so prepared in his presence at the time of release of the vehicle in question for use in course of trial or the confiscation proceeding, as the case may be.

This order shall, however, be subject to the result of Cr. W.J.C. No. 2446 of 2017 (Rahul Kumar @ Rahul Vs. The State of Bihar & Ors.).

The application is, accordingly, allowed.

(Ashutosh Kumar, J)

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