

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.17 of 2018

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Prem Sagar Yadav, Son of Late Keshwar Yadav, Resident of Village-Bhore, Belwa Thakurain, P.S.- Bhore, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar Through Chief Secretary, Govt. of Bihar, Patna.
2. The District Magistrate, Siwan.
3. The Superintendent of Excise Department, Siwan.
4. That Officer in Charge, Mairwa Police Station, Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary, Advocate
For the Respondent/s : Mr. Kr Manish, SC-5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 08-01-2018

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

Petitioner has prayed for release of the vehicle
Scorpio bearing Chassis no. MAITA2TDKH2537728 and
Engine No. TDH4J82808 in favour of the petitioner in
connection with Mairwa P.S. Case No. 389 of 2017 for the
offences under Sections 272, 273 and 340 of the Indian
Penal Code and 30(A), 37(B), 38(i) and 41(i) of the Bihar
Prohibition and Excise Act, 2016.

Learned counsel for the petitioner relies upon
a Division Bench order of this Court in L.P.A. No. 1647 of



2015 and order dated 29.08.2017 passed in Cr.W.J.C. No. 1289 of 2017 by a co-ordinate Bench of this Court and submits that the petitioner is ready and willing to abide by the terms and conditions which may be imposed by this Court. It is stated that one empty bottle not having illicit liquor therein has been recovered from the vehicle in question.

Let the vehicle if belongs to the petitioner be released provisionally on production of proof of ownership and registration of the vehicle in his favour subject to the following conditions:-

(i) Petitioner shall furnish a surety bond of Rs. 10,00,000/- (ten lakhs only) (not in form of cash or Bank guarantee) with two sureties of the like amount to the satisfaction of satisfaction of the learned Additional Sessions Judge – II cum Special Judge (Excise), Siwan or the District Magistrate, Siwan, as the case may be.

(ii) Petitioner shall furnish an undertaking that he would not alienate or encumber the vehicle



or deal with them adverse to the interest of the State and shall produce the vehicle before the Collector-cum-District Magistrate, Siwan as and when directed.

(iii) A photograph of the vehicle shall be taken and panchnama be also prepared and kept on record in accordance with law.

It shall be subject to result of the decision in LPA No.1647 of 2015 where a question as to whether the Collector can pass an order of confiscation is pending consideration.

This application is, accordingly, disposed off.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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