

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2836 of 2017

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Kanhai Kumar Srivastava @ Kanhai Srivastava @ Kanhai Kumar, S/o Late Satyanarayan Prasad Srivastava, R/o Ward No. 17, Balughat Road No.1, P.S.- Town (Muzaffarpur), Block- Mushari, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar Through Its Chief Secretary, Old Secretariat, Patna.
2. The Principal Secretary, Department of Excise, Bihar, Patna.
3. The Principal Secretary Home Police, Bihar, Patna.
4. The District Collector , Muzaffarpur, District Muzaffarpur.
5. The Superintendent of Police, (S.P.) Muzaffarpur, District- Muzaffarpur.
6. S.H.O. Town P.S., Muzaffarpur, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nitu Kumari

For the Respondent/s : Mr. Anil Kumar Sinha (GA 1)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-01-2018 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner has prayed for release of the vehicle Hero Passion Plus (Motorcycle) bearing Reg. No. BR06K-4396, which has been seized by the police in connection with Town P.S. Case No.300 of 2017, District Muzaffarpur for the offence under Section 272, 273 and 290 of the I.P.C. and Sections 30(a), 38(1) and 38(2) of the Bihar Prohibition and Excise Act, 2016.



Learned counsel petitioner submits that only one bottle of 750 ml of foreign liquor was recovered from the vehicle in question. He further submits that a confiscation proceeding being confiscation case no.210 of 2017-18 has already been initiated in this regard. Learned counsel, however, submits that very jurisdiction of the Collector-cum-District Magistrate to initiate and conduct confiscation proceeding is pending consideration before a Division Bench of this Court in LPA No.1647 of 2015

In the facts and circumstances stated hereinabove, let the vehicle of 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 surety bond of Rs.75,000/- (seventy five thousand) (not in form of bank guarantee or cash) with two sureties of the like amount to the satisfaction of court below or the 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) A photograph of the vehicle shall be taken and panchnama be also prepared and kept on record.

The application stands disposed of.

(Rajeev Ranjan Prasad, J)

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