

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.895 of 2018

Arising Out of PS.Case No. -167 Year- 2017 Thana - TELHARA District- NALANDA
(BIHARSHARIFF)

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Anand Raj S/o Baiju Yadav @ Baiju Prasad resident of Village Telhara Tarpar P.S.
Telhara District Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Excise Department, Govt. of Bihar, Patna.
2. The District Magistrate, Nalanda.
3. The Superintendent of Police, Nalanda.
4. The District Transport Officer, Nalanda.
5. The Officer in Charge Telhara Police Station Telhara District Nalanda.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. (Advocate).

For the Respondent/s : Mr. (A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 11-04-2018

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

Petitioner has prayed for release of the vehicle (Scorpio Car) bearing Reg. No. BR-1BL-0546, which has been seized by the police in connection with Telhara P.S. Case No. 167 of 2017, District Nalanda, for the offence under Section 37(a) of the Bihar Prohibition and Excise Act, 2016. It is alleged that no illicit liquor have been recovered from the vehicle in question, however, on the ground that the driver of the vehicle was in drunken condition the vehicle has been seized.

Learned counsel for the petitioner submits that till date no confiscation proceeding has been initiated and 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.

In case respondents want to take action for confiscation, they are cautioned to take note of Section 56 of the Act and shall initiate proceedings only if the confiscation proceedings can be initiated in a case like this where there is no seizure of liquor and the vehicle is not used for transportation of liquor and only the driver / person sitting in the vehicle is found to have driven the vehicle in a drunken condition. In case confiscation proceedings are initiated and finally it is found that the confiscation could not be initiated being contrary to Section 56, the petitioner shall have liberty to seek compensation to be paid by the officer concerned personally who takes action in the matter.

Considering the facts and circumstances, pending initiation or finalization of confiscation proceeding, let the vehicle in question be released provisionally in favour of the petitioner 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 two sureties, valued at Rs. 6,00,000/- (Six lacs) (not in form of cash or Bank Guarantee), to the satisfaction of the District Magistrate, Nalanda.

(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 the same be kept on record which may be used as a secondary evidence.

(iv) The Petitioner undertakes not to challenge the 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.

The application stands disposed of.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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