

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2444 of 2018

Arising Out of PS. Case No.-236 Year-2018 Thana- NAANPUR District- Sitamarhi

Shivendra Mishra @ Shivendra Kumar Mishra, Son of Jeet Bahadur @ Jeet Bahadur Mishra, Resident of Village- Janipur, P.S.- Nanpur, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary, Registration, Excise And Prohibition Department, Government of Bihar, Patna.
2. The Collector/District Magistrate- Sitamarhi, District- Sitamarhi.
3. The Excise Deputy Commissioner, Sitamarhi, District- Sitamarhi.
4. The Superintendent of Police, Sitamarhi.
5. The Superintendent of Excise, Sitamarhi.
6. The S.H.O. of Nanpur Police Station, District- Sitamarhi.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 10-10-2018 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner has prayed for provisional release of the vehicle Motorcycle Bajaj (Vikarant) bearing registration no. BR-30Q-4472, which has been seized by the police in connection with Nanpur P. S. Case No. 236 of 2018 for the offence under Sections, 272, 273 of the Indian Penal Code and Sections 30(a), 37 (b) of the Bihar Prohibition and Excise Act, 2016.

It is alleged that 360 ml. of illicit liquor have been recovered from the vehicle in question.



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. It is further submitted that no confiscation proceeding has been initiated.

In view of the views expressed by the Hon'ble Division Bench of this Court, considering the quantity of the illicit liquor being less than 30 liters, pending initiation/finalization of confiscation proceeding, this Court would direct provisional release of the vehicle in question on furnishing two sureties for the value of the vehicle in question as indicated in the insurance document to the satisfaction of the court below.

The order of provisional release is, however, subject to the further undertakings to be submitted by the petitioner before the court below as follows:

- (i) That the vehicle in question is not involved in any other offence of similar nature in past and shall not be involved in the nature of the offence in future.
- (ii) That the petitioner shall not create any third party right or interest in respect of the vehicle in question.
- (iii) That the petitioner shall produce the vehicle as



and when required by the learned court below/authority concerned.

Prior to release of the vehicle a Panchnama shall be prepared which will be kept on record for future use in course of trial.

The vehicle be released within one week from the date of furnishing surety and the undertakings as indicated above.

The application stands disposed off.

(Rajeev Ranjan Prasad, J)

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