

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.461 of 2018

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Rambabu Rai @ Rambabu Yadav, S/o Late Rajdeo Rai, R/o
Village- Bangri @ Mahamadpur, P.O.- Marwan , P.S.- Kanti
(Panapur O.P.), 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, Excise, Muzaffarpur, District - Muzaffarpur.
6. Sub-Inspector, Excise, Paroo-Cum-Motipur Circle-2, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Nitu Kumari, Adv.

For the State : Mr. Vikash Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 24-07-2018

No counter affidavit has been filed till date.

The petitioner seeks release of Pickup Van
(Bolero), bearing Reg. No. BR-06T-6110, which has been
seized in connection with Case No. C-95 of 2014, District-



Muzaffarpur, instituted under Sections 47(a) and 47(f) of the Bihar Prohibition and Excise Act, 2016.

It has been submitted on behalf of the petitioner that he is the owner of the vehicle in question and had entrusted the same to his driver for being plied on commercial basis. The petitioner did not have any idea that the vehicle in question shall be used for transporting country made liquor.

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.).

The petitioner 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.

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 a 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. 5,00,000/- (Rupees Five Lacs) to the satisfaction of the District Magistrate, Muzaffarpur/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.

The application is, accordingly, allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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