

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1668 of 2018

Arising Out of PS. Case No.-160 Year-2018 Thana- SHERGHATI District- Gaya

Abhishek Kumar Son of Binod Singh Resident of Village : Pahadbigha, P.S.
Nabinagar, District : Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Superintendent of Police, Gaya.
4. The S.H.O. Sherghati, District : Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Satyapal Singh
For the Respondent/s : Mr. Vivek Prasad(Gp-7)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 24-07-2018 The petitioner seeks release of Santro Axine G.L. Car, bearing Registration No. JH-10G-4754, Engine No. G4HD4E7B2111, seized in connection with Sherghati P.S. Case No. 160 of 2018, instituted for the offence under Section 30(a) of the Bihar Prohibition of Excise Act, 2016.

The aforesaid seizure has been made in view of the fact that there was a recovery of 160 liters of country made liquor from the vehicle.

The provisions contained in the Bihar Prohibition of 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 Versus the State of Bihar and others).

In that view of the matter, pending initiation / finalization of the confiscation proceeding, let the vehicle of the petitioner in question 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 surety bond (not in form of bank guarantee or cash) for the value of the vehicle in question as indicated in the insurance document with two sureties of the like amount to the satisfaction of the District Magistrate, Gaya.

(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 vehicle in question for use in course of trial or the confiscation proceeding, as the case may be.

This order shall be subject to the result of Cr.W.J.C. No. 2446 of 2017.

The application is, accordingly, allowed.

(Ashutosh Kumar, J)

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