

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.602 of 2018

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1. Viimlesh Ray @ Vimalesh Ray S/o Raj Narayan Ray, R/o Village-Lapatha @ Laptaha, P.S.- Parihar, 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.
3. The Senior Superintendent of Police Sitamarhi.
4. The Excise Superintendent , Sitamarhi.
5. The Sub Inspector , Exeise , Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok

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

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 16-03-2018

At the outset, learned counsel for the petitioner seeks permission to convert this criminal writ application in a civil writ application as he wants to challenge the *virus* of the provisions of the Bihar Prohibition and Excise Act, 2016. According to learned counsel, the confiscation order has been passed by the District Magistrate, who is an Executive.

Petitioner is permitted to do so.

Office to report accordingly.

In the meantime, let the vehicle (Honda Shine Motorcycle) bearing registration no. BR-30M-6180 of the petitioner which has been seized by the police in



connection with Case No. C2-162/17 registered for the offence under Sections 30(a), 53(a) of the Bihar Prohibition and Excise Act, 2016, be provisionally released 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) Petitioner shall furnish a surety bond of Rs. 60,000/- (Sixty Thousand only) in form of Bank guarantee or the original title deed of an immovable property lying within the jurisdiction of the court or any other security of like nature to the satisfaction of the learned Court below or the Collector cum District Magistrate, Sitamarhi, as the case may be.

(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.



(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) Petitioner undertakes 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.

(Rajeev Ranjan Prasad, J.)

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