

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.546 of 2018

Arising Out of PS.Case No. -null Year- null Thana -null District- MADHUBANI

=====

Lakhan Mochi S/o Late Sajan Mochi, R/o Village- Rajakharwar, P.S.- Sakatpur,
District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary, Department of Excise And Prohibition, Govt. of Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Superintendent of Police, Madhubani.
4. The Officer In Charge, Madhawapur, District- Madhubani.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha

For the Respondent/s : Mr. Vivek Prasad, GP7

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 26-04-2018

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

The present writ application has been filed to release the vehicle (Hero HF Delux Motorcycle) bearing registration No. HR26BX-8838 which has been seized in connection with Jhanjharpur P.S. Case No. 144/2017 for violation of the Excise Act, 2016. It is submitted that nothing has been recovered from the vehicle in question.

In the facts and circumstances, let the aforesaid vehicle be provisionally released on production of proof of ownership and registration of the vehicle in his favour subject to the following conditions:-

- (i) Petitioner shall furnish surety bond of Rs. 60,000/- (sixty thousand) (not in form of bank guarantee or cash) with two sureties of the like amount to the satisfaction of the District Magistrate, Madhubani.
- (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) 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.

It is made clear that before initiation of any confiscation proceeding the District Magistrate shall consider the preliminary issue as to whether in view of Section 56 of the Bihar Prohibition and Excise Act, 2016 a confiscation proceeding may be initiated in respect of a vehicle from which there is no recovery of illicit liquor.

The application stands disposed of.

Rajeev/-

(Rajeev Ranjan Prasad, J.)

AFR/NAFR	
CA V DATE	
Uploading Date	28.04.2018
Transmission Date	28.04.2018

