

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1238 of 2018

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1. Yogendra Paswan son of Late Talli Ram Resident of behind Khajpura Shiv Mandir, Khajpura, P.S. Airport, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Superintendent of Excise, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Officer-in-charge of Rupaspur Police Station, District Patna.
6. Investigating Officer, Rupaspur P.S. Case No. 354/17, Rupaspur P.S., District Patna.

.... Respondent/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 04-05-2018 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner has prayed for release of the vehicle Passion Pro Motorcycle bearing Reg. No. BR 01CV 1246, Engine No. HA10EVGHC92954, Chassis No. MBLHA10BSGHC87289, which has been seized by the police in connection with Rupaspur P.S. Case No. 354 of 2017, District- Patna for the offence under Section 279 of the Indian Penal Code and Section 37(a)(b)(c) of the Bihar Prohibition and Excise Act, 2016. It is alleged that the petitioner is found in a drunken condition. Nothing has been recovered from the possession of the petitioner.



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.

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) 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 District Magistrate, Patna/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) 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.

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 Ranjan Prasad, J.)

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