

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1101 of 2018

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Chinta Devi, wife of Late Sambodh Giri, Resident of Shambhusareya Ke Mathiya, Post Laxmiganj, Police Station - Goreakothi, District - Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate, Siwan.
4. The Superintendent of Police, Siwan.
5. The Police Inspector-cum-Officer Incharge (S.H.O.), Police Station - Maharajganj, District - Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raghav Prasad

For the Respondent/s : Mr. Anil Kumar Sinha (GA1)

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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 MUL Wagon R bearing Reg. No. BR29R-4270, which has been seized by the police in connection with Maharajganj P.S. Case No. 223 of 2017, District-Siwan for the offence under Section 37(B) of the Bihar Prohibition and Excise Act, 2016. It is alleged that the driver of the vehicle in question was found in drunken condition.

Learned counsel for the petitioner at the outset submits that this application for provisional release of the vehicle in question has been filed by the wife of registered owner of the



vehicle because the registered owner has died.

If it is so, on the petitioner's submitting the certificate of registration of the vehicle in the name of her husband and her identity proof showing that she is the wife of the registered owner of the vehicle, the vehicle in question shall be provisionally released in her favour within one week subject to the following conditions:-

- (i) Petitioner shall furnish surety bond of Rs. 4,00,000/- (four lakhs) (not in form of bank guarantee or cash) with two sureties of the like amount to the satisfaction of District Magistrate, Siwan/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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