

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2093 of 2018

Arising Out of PS. Case No.-438 Year-2018 Thana- BODHGAYA District- Gaya

Sikandar Kumar, Son of Shiv Shankar Ram, Resident of Village and Post-Chovar, Police Station- Sherghati (Tankuppa), District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Registration, Excise And Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Gaya.
3. The Senior Superintendent of Police, Gaya.
4. The Excise Superintendent, Gaya.
5. The Officer-in-Charge, Bodh Gaya Police Station, District- Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2
For the Respondent/s : Mr. Vivek Prasad(Gp-7)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 31-10-2018 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner has prayed for provisional release of the vehicle (Auto Piaagio APE) bearing registration no. BR02AA-4583, which has been seized by the police in connection with Bodh-Gaya P. S. Case No. 438 of 2018 for the offence under Section 30(d) of the Bihar Prohibition and Excise Act, 2016.

It is alleged that 160 kg. Mahua flower have been recovered from the vehicle in question.

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. It is further submitted that no notice has been received by the petitioner for confiscation proceeding in respect of the vehicle in question.

In view of the views expressed by the Hon'ble Division Bench of this Court, considering the quantity of the recovered Mahua flower, pending initiation/finalization of confiscation proceeding, this Court would direct provisional release of the vehicle in question on petitioner producing document of ownership and registration in his name and furnishes two sureties along with a Bank guarantee for the value of the vehicle in question as indicated in the insurance document to the satisfaction of the court below.

The order of provisional release is, however, subject to the further undertakings to be submitted by the petitioner before the court below as follows:

(i) That the vehicle in question is not involved in any other offence of similar nature in past and shall not be involved in the nature of the offence in future.

(ii) That the petitioner shall not create any third party right or interest in respect of the vehicle in question.

(iii) That the petitioner shall produce the vehicle as and when required by the learned court below/authority



concerned.

Prior to release of the vehicle a Panchnama shall be prepared which will be kept on record for future use in course of trial.

The vehicle be released within one week from the date of furnishing surety and the undertakings as indicated above.

The application stands disposed off.

(Rajeev Ranjan Prasad, J)

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