

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.68 of 2018

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Vinod Paswan S/o Late Kishuni Paswan R/o Village - Sirahi, P.S. - Riga,
District - Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Registrastion, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Collector/District Magistrate, Sitamarhi, District - Sitamarhi.
3. The Excise Deputy Commissioner, Sitamarhi.
4. The Senior Superintendent of Police, Sitamarhi.
5. The Superintendent of Police, Sitamarhi.
6. The Police Inspector cum S.H.O. Majorganj Police Station, District - Sitamarhi.
7. The Police Sub-Inspector in charge-Suppi O.P., District - Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Jha

For the Respondent/s : Mr. Kumar Manish

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 16-02-2018 In the present writ application final order of
confiscation has been challenged.

Learned counsel for the petitioner submits that he may be allowed to convert this criminal writ application in a civil writ application in order to challenge the impugned order together with virus of the provisions of the Bihar Prohibition and Excise Act, 2016 whereunder the power of confiscation has been vested in an Executive i.e. the District Magistrate. Learned counsel also submits that a similar issue is pending consideration before a Division Bench of this Court in LPA No.1647 of 2015 and other



analogous cases.

He is permitted to do so in accordance with the report to be submitted by the office.

In the meantime, let the vehicle of the petitioner Mahindra Maxima Van bearing Reg. No.BR-06PC-3258 seized in connection with Majorganj P.S. Case No.165 of 2017, District - Sitamarhi for the offence under Sections 272 and 273 of the I.P.C. and Section 30(a) of the Bihar Prohibition and Excise Act, 2016 be released provisionally on 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 in form of a bank guarantee or by deposit of original title deeds of immovable property lying within the jurisdiction of the court below/authority concerned or any other security of like nature valued at Rs. 6,00,000/- (six lakhs)) to the satisfaction of court below or the 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 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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