

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2875 of 2017

Arising Out of PS.Case No. -176 Year- 2017 Thana -Mirganj District- GOPALGANJ

=====

Tarkeshwar Mishra @ Mannu Mishra, Son of Late Ramaiya Mishra, Resident of
Village- Narainiya, Police Station- Mirganj, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Govt. of Bihar, Patna.
3. The District Magistrate-cum-Collector, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Officer-in-Charge (S.H.O.), Mirganj Police Station, Gopalganj.

.... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Lokesh Kumar Singh, Advocate.

For the Respondent/s : Mr. Vivek Prasad, GP 7.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 09-01-2018

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

The present application has been filed for release of New
Yamaha Motorcycle bearing registration no. BR-28R/0628, Chesis
No. ME1RE1228G0048112, Engine No. E3PIE0085131 and Key No.
2333 in favour the petitioner which was seized by the police in
connection with Mirganj P.S. Case No. 176 of 2017 for offences
registered U/S 272, 273 IPC, Section 30(a) of the Bihar Prohibition
and Excise (Amendment) Act, 2016.

It is alleged that on search illegal foreign wine in total
quantity of 188 ml x 13 was recovered from the vehicle in question.



Learned counsel for the State is present.

Considering the facts and circumstances of the case and keeping in mind that the vehicle was being used allegedly for carrying a substantial quantity of wine, may be for supply, this Court is of the opinion that the normal conditions for release of the vehicle cannot be applied in this case and, thus, departing from the normal conditions, this Court would direct that the motorcycle in question be provisionally released in favour of the petitioner on production of documents of ownership and registration in his favour and submission of surety bond for Rs. 1,00,000/- (One lakh) in form of bank guarantee or by way of depositing title deed of the immoveable property lying within the jurisdiction of the court below or the authority concerned, as the case may be, or any other surety of the like nature to the satisfaction of the court below or the authority concerned in connection with Mirganj P.S. Case No. 176 of 2017.

At the time of release of the motorcycle in question, the petitioner shall give an undertaking that he will not deal with the motorcycle in any manner whatsoever and shall not encumber the same or create a third party interest adverse to the interest of the State.

He will also give an undertaking that the motorcycle in question shall be produced either before the court below or the authority concerned, as the case may be, whenever required.



Before release, a photograph duly certified by the vehicle owner and a Panchnama shall also be got prepared and be kept on record which the petitioner will not challenge.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.01.2018
Transmission Date	10.01.2018

