

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.565 of 2018

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1. Raj Kishore Singh Son of Kamo Singh, Resident of Village-Bilampur,
P.S.-Teghra, District-Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary Excise Department,
Bihar, Patna.
2. The District Magistrate, Begusarai.
3. The Superintendent of Police, Begusarai.
4. The S.H.O. Barauni (Garhara), District-Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Sumiran Rai

For the Respondent/s : Mr. Vikash Kumar (Sc Xi)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 16-03-2018

At the outset, learned counsel for the petitioner seeks permission to convert this criminal writ application in a civil writ application as he wants to challenge the *virus* of the provisions of the Bihar Prohibition and Excise Act, 2016. According to learned counsel, the confiscation order has been passed by the District Magistrate, who is an Executive.

Petitioner is permitted to do so.

Office to report accordingly.

In the meantime, let the vehicle (TVS Motorcycle) bearing registration no. BR-09T-6830 of the petitioner which has been seized by the police in



connection with Barauni (Garhara) P.S. Case No. 450/2016, for the offence under Sections 30(a), 53(a) of the Bihar Prohibition and Excise Act, 2016, be provisionally released 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 a surety bond of Rs. 60,000/- (Sixty Thousand only) with two sureties of the like amount to the satisfaction of the court below/District Magistrate, Begusarai, 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.
- (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.)

Rajeev/-

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