

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.346 of 2018

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Vikash Kumar, Son of Sri Rama Shankar Prasad, R/o Village- Sonapatti,
Ward No.6, P.S.- Sitamarhi, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary, Registration, Excise And Prohibition Department, Government of Bihar, Patna.
2. The Collector/District Magistrate Sitamarhi.
3. The Senior Superintendent of Police, Sitamarhi.
4. The Excise Superintendent, Sitamarhi.
5. The Office in Charge, P.S.- Bela, District- Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok

For the Respondent/s : Mr. Vivek Prasad

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 14-03-2018 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 of the petitioner namely Sumo Gold (Victa Ex.Jeep Taxi) bearing Reg.No.BR30P-1990, Engine No.483DL56KYY71917, Chassis



No.MAT446246B9K33281, which has been seized by the police in connection with Bela P.S. Case No.210 of 2017, District-Sitamarhi for the offence under Sections 272 and 273 I.P.C. and Sections 30(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 in form of a bank guarantee or by deposit of original title deeds of immovable property lying within the jurisdiction of the authority concerned or any other security of like nature valued at Rs. 5,00,000/- (five lakhs)) to the satisfaction of the District Magistrate, Sitamarhi/ 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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