

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10069 of 2018**

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Sujit Singh, Son of Laxman Prasad Singh, resident of Village- Rampur  
Khajuriya, P.S.- Dumariya Ghat, District- East Champaran.

... .. 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, Saran at Chapra.
3. The Assistant Excise Commissioner, Saran at Chapra.
4. The Superintendent of Excise, Saran at Chapra.
5. The Superintendent of Police, Saran at Chapra.
6. The Vehicle Inspector, Saran at Chapra.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Dewendra Narayan Singh  
For the Respondent/s : Mr. Anil Kumar Sinha -Gal

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**  
**and**  
**HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)**

4     18-12-2018                      Heard learned counsel for the petitioner and learned  
counsel for the State.

This application has been filed seeking provisional release of the vehicle (Mahindra Bolero Camper Four Wheeler) bearing Registration No. BR-05G-3749, seized in connection with Amnour P.S. Case No. 15 of 2018 dated 21.01.2018 registered under Section 30(a) of the Bihar Prohibition & Excise Act, 2016. It has been stated that from the vehicles in question 2700 liters of spirit have been recovered.

Learned counsel for the petitioner submits that the vehicle is lying under open sky under the Police Station and if it is allowed to remain there for any longer time, the whole vehicle will



become a junk and if release is not allowed, the State is not going to gain anyway in confiscation proceeding. Learned counsel submits that the petitioner is willing to provide such surety and undertakings which may be required to protect the interest of the State during the pendency of the confiscation.

In the given facts and circumstances where vehicle in question is lying under open sky, losing its road worthiness and the confiscation proceeding has not been finalized within last 11 months, keeping in mind the interest of the State as well, we direct that pending finalization of the confiscation proceeding, the vehicle in question be released provisionally in favour of the petitioner on the petitioner's producing the document of ownership and registration in his name before the District Magistrate, Saran at Chapra, with two sureties to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:-

(i) That the vehicle in question has never been involved in any offence of similar nature in past and shall not indulge in similar offence in future.

(ii) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.

(iii) The petitioner shall furnish an undertaking to produce



the vehicle before the confiscating authority as and when required.

(iv) Prior to release of the vehicle a Panchnama would be prepared by the court below wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and the same shall be kept on record so that in future if so required it may be used as a secondary evidence. The petitioner shall undertake not to challenge the said Panchanama in course of trial.

Subject to the above conditions, following the views expressed by the Hon'ble Division Bench of this Court and in tune with that, we dispose of this application.

The release shall be allowed within a period of 7 days from the date of submission of the surety bond and the undertakings as stated above. This would, however, be subject to initiation and finalization of the confiscation proceeding if any.

**(Jyoti Saran, J)**

**( Rajeev Ranjan Prasad, J)**

*Rajeev/R.R.Ojha*

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