

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1624 of 2018

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Ashok Kumar S/o Yogendra Prasad, R/o Vill. - Dharampur, P.S.- Harnaut,
District- Nalanda at present C/o Gaurav Kumar Singh, Sanjeev Medical
Hall, Near S.B.I. Bank, Mahendru, P.S.- Sultanganj, Patna-6.

.... Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary. Department of Excise,
Govt. of Bihar, Patna.
2. The District Magistrate, Nalanda at Bihar Sharif.
3. The Superintendent of Police, Nalanda at Bihar Sharif.
4. The Station House Officer, Soh Sarai, P.S., Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr. Vikash Kumar (Sc 11)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD
ORAL ORDER

2 25-07-2018 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner has prayed for release of the vehicle Bolero
Zeep, bearing Reg. No. BR-01-PD-2516, which has been seized
by the police in connection with Soh Sarai P.S. Case No. 123 of
2018, District- Nalanda for the offence under Section 37(B) of the
Bihar Prohibition and Excise Act, 2016. It is alleged that the
person who was sitting in the vehicle was found in drunken
condition.

Learned counsel for the petitioner submits that the
petitioner is ready and willing to abide by the terms and conditions



which may be imposed by this Court for provisional release of the vehicle in question.

Considering the facts and circumstances, pending initiation or finalization of the confiscation proceeding, let the vehicle of the petitioner be released provisionally 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 surety bond (not in form of bank guarantee or cash) for the value of the vehicle in question as indicated in the insurance document with two sureties of the like amount to the satisfaction of District Magistrate, Nalanda at Bihar Sharif/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 shall undertake 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.

It is made clear that before initiation of any confiscation proceeding the District Magistrate shall consider the preliminary issue as to whether in view of Section 56 of the Bihar Prohibition and Excise Act, 2016 a confiscation proceeding may be initiated in respect of a vehicle from which there is no recovery of illicit liquor.

The application stands disposed of.

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha/Ved

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