

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1669 of 2018

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Shiv Shankar Paswan, Son of Kusheshwar Paswan, resident
of Village Babupali, P.S. Khajauli, Distt.- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary,
Department of Excise, Govt. of Bihar, Patna.
2. The Divisional Commissioner, Excise Department of
Darbhanga, Division Darbhanga.
3. The Collector, Darbhanga.
4. The Superintendent of Police, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramashankar Singh, Adv.

For the Respondent/s : Mr. Kumar Manish (SC-5)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 24-07-2018 The petitioner seeks release of his Magic Van,
bearing Reg. No. 32PA 3446, which has been seized in
connection with Darbhanga Sadar P.S. Case No. 116 of 2018,
instituted under Section 30(a) of the Bihar Prohibition and
Excise Act, 2016.

It has been submitted on behalf of the petitioner
that he is ready and willing to abide by the terms and
conditions which may be imposed by this Court for the



provisional release of the vehicle in question.

The provisions under Sections 56, 57, 58 and 60 of the Bihar Prohibition and Excise Act, 2016 relating to confiscation is under challenge and the matter is pending consideration before a larger Bench in Cr. W.J.C. No. 2446 of 2017 (Rahul Kumar @ Rahul Vs. The State of Bihar & Ors.).

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) The petitioner shall furnish 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/- (Rupees Five Lacs) to the satisfaction of the District Magistrate, Darbhanga/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) The petitioner shall undertake not to challenge the said photograph and *panchnama* so prepared in his presence at the time of release of the vehicle in question for use in course of trial or the confiscation proceeding, as the case may be.

This order shall, however, be subject to the result of Cr. W.J.C. No. 2446 of 2017.

The application is, accordingly, allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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