IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2014 of 2018

Arising Out of PS. Case No.-241 Year-2017 Thana- BENIPATTI District- Madhubani

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Rupesh Thakur son of Shivchandra Thakur, resident of Village- Haripur, P.S. Chorout, District- Sitamarhi.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Deptt. of Excise, Govt. of Bihar, Patna.
2. The District Magistrate, Madhubani.
3. Superintendent of Excise, Madhubani.
4. Station House Officer, Benipatti Police Station, District- Madhubani.
5. Investigating Officer of Benipatti P.S. Case No. 241/17, District- Madhubani.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ravi Ranjan
For the Respondent/s : Mr. Vikash Kumar

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 28-08-2018 The petitioner seeks release of his Honda Motorcycle bearing Reg. No. BR-30-Q3906 which has been seized in connection with Benipatti P.S. Case No. 241 of 2017 dated 30.10.2017 instituted for the offences under Sections 25(1)(a)(b/26/35 of the Arms Act and Sections 30(b)(c) of the Bihar Prohibition and

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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:-

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(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. 1,00,000/- (Rupees one Lakh) to the satisfaction of the District Magistrate, Madhubani/ 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

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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 (Rahul Kumar @ Rahul Vs. The State of Bihar & Ors.).

The application is, accordingly, allowed.

(Ashutosh Kumar, J)

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