

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2475 of 2018

Arising Out of PS. Case No.-438 Year-2017 Thana- MADHAURAH District- Saran

Binod Kumar, S/o Bhagwan Ray, R/o Vill- Pakaha, P.S.- Marhaurah, Dist- Saran at Chhapra.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Excise & Prohibition, Government of Bihar, Patna.
3. The Excise Commissioner, Department of Excise & Prohibition, Government of Bihar, Patna.
4. The District Magistrate cum District Collector, Saran.
5. The Superintendent of Police, Saran.
6. The Station House Officer, Police Station Marhaura, District- Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumar Binode Bariar
For the Respondent/s : Mr. Vikash Kumar (Sc11)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 12-10-2018 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner has prayed for provisional release of the vehicle Hero HF Deluxe Motorcycle bearing registration no. BR-04W-2285, which has been seized by the police in connection with Marhaura P. S. Case No. 438 of 2018 for the offence under Section 30(A)/38 of the Bihar Prohibition and Excise Act, 2016 and Sections 188, 272, 273 and 308 of the Indian Penal Code.

It is alleged that 35 liters of illicit Mahua liquor have been recovered from the vehicle in question.



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. It is further submitted that no confiscation proceeding has been initiated in respect of the vehicle in question.

In view of the views expressed by the Hon'ble Division Bench of this Court, considering the quantity of the illicit liquor being more than 30 liters, pending initiation/finalization of confiscation proceeding, this Court would direct provisional release of the vehicle in question on petitioner producing document of ownership and registration in his name and furnishes two sureties along with a bank guarantee for the value of the vehicle in question as indicated in the insurance document to the satisfaction of the court below.

The order of provisional release is, however, subject to the further undertakings to be submitted by the petitioner before the court below as follows:

(i) That the vehicle in question is not involved in any other offence of similar nature in past and shall not be involved in the nature of the offence in future.

(ii) That the petitioner shall not create any third party



right or interest in respect of the vehicle in question.

(iii) That the petitioner shall produce the vehicle as and when required by the learned court below/authority concerned.

Prior to release of the vehicle a Panchnama shall be prepared which will be kept on record for future use in course of trial.

The vehicle be released within one week from the date of furnishing surety and the undertakings as indicated above.

The application stands disposed off.

(Rajeev Ranjan Prasad, J)

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