

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1872 of 2018

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Shiv Shankar Yadav, son of Late Yogendra Yadav, resident of Village-Bairba, P.S.-Madhawapur, District-Madhubani, At present 9008/14 B, Shidipura, East Park Road, Kuroibag, New Delhi 110005

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary Department of Excise, Government of Bihar, Patna
2. The District Magistrate, Madhubani
3. The Superintendent of Police, Madhubani
4. The Officer-in-charge, Police Station-Madhawapur, District-Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bimal Kumar

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

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 07-08-2018 The petitioner seeks release of his Platina Motorcycle bearing Reg. No. BR-32J-5898 which has been seized in connection with Madhwapur P.S. Case No. 65 of 2017 dated 26.07.2017 instituted under Sections 272, 273 of the Indian Penal Code and Sections 37(c), 30(a) of the Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that she 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.).

In that view of the matter, pending initiation or finalization of the confiscation proceeding, let the vehicle of the petitioner in question 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 bond (not in form of a 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 the 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 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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