

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1115 of 2019

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Kishan Yadav, S/o Ratan Yadav, R/o Sastri Nagar, P.O. Narayanpur, P.S. Bagaha, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The Principal Secretary, Department of Excise, Government of Bihar, Patna.
3. The District Magistrate, West Champaran, Bihar.
4. The Superintendent of Police, Bagaha, West Champaran.
5. The District Transport Officer, West Champaran, Bihar.
6. The Officer-in-charge, Piparasi P.S., District West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Gupta
For the Respondent/s : Mr.Vikash Kumar -SC11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 15-01-2019

Heard learned counsel for the petitioner and
learned Counsel for the State.

The petitioner prays for provisional release of the
Mahindra 275 Tractor bearing Registration No. BR-22Q-
9248, Engine No. RFNH07268, Chasis No. RFNH07268,
which has been seized in connection with Piparasi P.S. Case
No. 37 of 2018 for the offences punishable under Section
30(a) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the petitioner



that confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 540 liters of country made wine.

Having heard learned counsel for the parties and taking note of the nature of seizure made as well as the fact that the confiscation proceeding is yet to be initiated, we direct that the vehicle in question be released provisionally in favour of the petitioner on production of ownership and registration with respect to vehicle in question in his name before the court below with one surety along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety and the bank guarantee or the original title deed, as the case may be, shall also furnish the following affidavits/undertakings:

(I) That the vehicle in question has never been involved in any offence of similar nature in past and shall not indulge in similar offence in further.

(ii) That the petitioner shall not indulge in



creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.

(iii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when required.

(iv) Prior to release of the vehicle, a Panchanama would be prepared by the court below wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and the same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama in course of trial.

The release shall be allowed within a period of 14 days from the date of production of ownership/registration papers supporting the claim of the petitioner together with one surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance amount and the undertakings as



stated above. This would, however, be subject to the final order passed in the confiscation proceeding as and when initiated.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	---
Uploading Date	25.01.2019
Transmission Date	----

