

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2688 of 2019

-
-
1. Kamlesh Yadav, Sex Male aged about 29 years, S/o ShivYogi Yadav, resident of Vill. and P.o.- Bhada, Bhadwar Barati, P.s.-Bagengole, Distt.-Buxar
 2. Hiralal Yadav, Sex Male aged about 38 years, S/o Shiv Yogi Yadav, resident of Vill.-Mandir Sapahi Ward No.- 9, P.s.-Brahampur, Distt.-Buxar

... .. Petitioners

Versus

1. The State Of Bihar through The Principal Secretary Excise Department, Bihar, Patna
2. The Principal Secretary, Excise Department, Bihar, Patna
3. The District Magistrate Buxar
4. The Superintendent of Police Buxar
5. The Officer in Charge Police Station Brahampur, Buxar

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha
For the Respondent/s : Mr. Vivek Prasad (Gp7)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 01-07-2019

Mr. Rajesh Kumar Sinha, learned counsel for the petitioners while filing a supplementary affidavit informs that due to inadvertent error an incorrect F.I.R. has been enclosed in the main writ petition. He submits that the present case arises from Brahmpur P.S. Case No. 472/2018 and which F.I.R. is being placed on record by way of a supplementary affidavit. Learned counsel prays for making correction in the number of the F.I.R. as



occurring in the synopsis, paragraph 1 as well as in other places in the writ petition.

As prayed, leave is granted to learned counsel for the petitioner to make correction during the course of the day.

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the State.

The petitioners pray for provisional release of the Two Wheeler Apache bearing registration No. BR03W6677 in favour of petitioner no.1, and the Two Wheeler Bajaj Platine bearing registration No. BR44F3068 in favour of petitioner no.2, which has been seized in connection with Brahmpur P.S.Case No. 472/2018 for the offences punishable under section 30(A) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioners that 34.560 litres of Foreign liquor has been seized from each of the two motorcycles; the confiscation proceeding is yet to be initiated and the vehicles are lying under the open sky in the police station. The seizure list supports the seizure of the motorcycles and 34.560 litres of Foreign liquor from each of the two motorcycles.

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



vehicles in question be released provisionally in favour of the petitioners on production of ownership and registration with respect to vehicle in question in their name before the designated court below with two sureties each to the extent of the value of the respective vehicles as indicated in the insurance document(s). The petitioners while submitting their sureties shall also individually furnish the following affidavits/ undertakings:

(i) That the vehicles in question have never been involved in any offence of similar nature in past and shall not indulge in similar offence in further.

(ii) That the petitioners shall not indulge in creating any third party right or interest in respect of the vehicles during the pendency of the confiscation proceeding and shall not alienate the vehicles during this period.

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

(iv) Prior to release of the vehicles, a Panchanama would be prepared by the designated court below wherein the photograph of the vehicles shall be taken and will be certified by the petitioners and the same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The



petitioners 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 submission of the sureties and the undertakings as stated above, which would however be subject to initiation and finalization of the confiscation proceeding, if any.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.07.2019
Transmission Date	NA

