

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL WRIT No.16866 of 2018

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Jitendar Kumar, Son of Shri Uma Shankar Sah, R/o- Dundi Bagh, Sector 12
Guru Nanak Nagar, P.S.- City, District- Bokaro

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary Excise Department, Patna.
2. The District Magistrate, Patna.
3. The Police Inspector-cum- SHO, Kankarbagh Police Station, Kankarbagh, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ghanshyam Tiwary
For the Respondent/s : Mr.Kumar Manish - Sc5

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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 : 25-02-2019

Counter affidavit is being filed. Let it be taken on record.

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

This application has been filed seeking provisional release of the Pickup Van bearing Registration No. JH-09AA-3117, Engine No. GHFIF39378 and Chasis No. MA12N2GHKF1F56195 which has been seized in connection with Special Case No. 4038 of 2017 arising out of Kankarbagh P.S. Case No. 523 of 2017 for the offence punishable under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that confiscation proceeding is yet to be initiated and the vehicle in



question is lying under the open sky in the police station. The seizure list reflects the seizure of 162 litres of IMFL.

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 designated Court below with one local 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 future:

(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, if any, 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 got prepared by the designated 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 local 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 release would, however, be subject to the final order passed in the confiscation proceeding as and when initiated.

With the observations and directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Brajesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

