

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16255 of 2018

Niraj Kumar Son of Ishwari Yadav, resident of Village- Ranapratap Nagar,
Police Station- Islampur, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar and Ors
2. The District Magistrate-cum-Collector, Jehanabad.
3. The Senior Superintendent of Police, Jehanabad.
4. The Superintendent of Police, Excise, Jehanabad.
5. The Officer-In-Charge, Hulasganj, Police Station, District- Jehanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Gajendra Kumar Singh, Adv.
For the Respondent/s : Mr.Vikash Kumar- SC11

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 21-01-2019

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

This application has been filed seeking provisional release
of the Hero Honda (Passion Pro) bearing Registration No. BR01AU-
3057 Engine No. HA1BEDAGA2675, CHESIS No.MALH
AIQERAGA56814 seized in connection with Hulasganj P.S. Case
No. 31 of 2018 registered under Sections 30(a) of the Bihar
Prohibition & Excise Act, 2016.

Learned counsel submits that from the vehicle in question
4 litres illicit liquor have been recovered. It is submitted that
confiscation proceeding for the vehicle in question is pending.



Learned counsel for the petitioner submits that the vehicle is lying under open sky in the Police Station and if it is allowed to remain there for any longer time, the whole motorcycle will become a junk and if release is not allowed, the State is not going to gain anyway in confiscation proceeding. Learned counsel submits that the petitioner is willing to provide such surety and undertakings which may be required to protect the interest of the State during the pendency of the confiscation.

Having heard learned counsel for the parties and in the given facts and circumstances where confiscation proceeding for recovery of 4 litres of illicit liquor is presently pending, let the vehicle in question be released provisionally in favour of the petitioner on the petitioner's producing the document of ownership and registration in his name before the District Magistrate, Jehanabad (Confiscating Authority) with two sureties to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the sureties 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 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 Panchnama would be prepared by the confiscating authority 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 undertake not to challenge the said Panchnama in course of trial.

The release shall be allowed within a period of 14 days from the date of submission of the sureties bond and the undertakings as stated above. This release, however, would be subject to initiation and finalization of the confiscation proceeding if any.

The writ petition is allowed.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Bibhash/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	06.02.2019
Transmission Date	NA

