

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16416 of 2018

=====

Ram Khelon Mukhiya, Son of Kanku Mukhiya resident of Village - Kanka,
P.O. Kanka, P.S. Pandaul, District Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department, Govt. of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Madhubani.
3. The Superintendent of Police, Madhubani.
4. The S.H.O. Police Station, Pandaul, Madhubani.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav
For the Respondent/s : Mr. Vikash Kumar - SC11

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 28-01-2019

Heard learned counsel for the petitioner and
learned counsel appearing on behalf of the state.

The petitioner prays for provisional release of the
Hero Splendor Motorcycle bearing Registration No. BR32U-
5167, Chassis No. MBLHAR077HHD04749 Engine No.
HA10AGHHD04934, which has been seized in connection



with Pandaul P.S. Case No. 80 of 2018 for the offences punishable under Sections 272, 273 of the Indian Penal Code and 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 09 liters of Nepali Sofi Country Liquor.

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 two sureties (one local) 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 *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.

Subject to the above conditions, following the view expressed by the Hon'ble Division Bench of this Court and in tune with that, we dispose of this application.

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. This 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)

(Arvind Srivastava, J)

shailendra/Nasimul

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01.02.2019
Transmission Date	N/A

