

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16699 of 2018

=====

Manish Kumar Singh Son of Ram Bachan Singh Resident of Village-
Uchitpur, P.S. Sasaram Muffasil, District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
3. The Collector-Cum-District Magistrate, Ara, District- Bhojpur.
4. The Superintendent of Excise, Ara, District-Bhojpur.
5. The S.H.O., Koilwar, Police Station, District- Bhojpur at Ara.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Babu Nandan Prasad
For the Respondent/s : Mr.Vivek Prasad- Gp7

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 04-02-2019

Leave is granted to the learned counsel for the petitioner to correct the name of station of Respondent Nos. 3, 4 and 5 during the course of the day in court's pleading as well as pleadings of respondent-state.

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

The petitioner prays for provisional release of the Pick-up Van bearing Engine No. 497SPTC43GTY624991, Chassis No. MAT524005GSG06546, which has been seized in connection with Koilwar P.S. Case No. 258 of 2016 for the



offences punishable under Section 30(4) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the petitioner that confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 340.5 liters of I.M.F.L.

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 pending, 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 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.

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 finalization of the confiscation proceeding, if any.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.02.2019
Transmission Date	NA

