

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16755 of 2018

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Awadhesh Sah, Son of Late Jagdev Sah, resident of Village- Rewtith Bazar,
P.S.- Baikunthpur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar.
2. The District Magistrate-cum-Collector, Gopalganj, District- Gopalganj.
3. The Assistant Excise Commissioner, Gopalganj, District Gopalganj.
4. The Superintendent of Excise, Gopalganj, District- Gopalganj.
5. The Superintendent of Police, Gopalganj, District Gopalganj.
6. The Station House Officer, Baikunthpur, Police Station, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mritunjay Prasad Singh
For the Respondent/s : Mr.Vivek Prasad - GP7

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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 : 04-02-2019

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

The petitioner prays for provisional release of the
Hero Honda Glamour Motorcycle bearing Registration
No. BR28R-2634, Chasis No. MBLJAR011H9D00607
Engine No. JAD6EHH9D00660, which has been seized in



connection with Baikunthpur P.S. Case No. 256 of 2017 for the offences punishable under Sections 272, 273 of the Indian Penal Code and Section 30(a), 36, 37 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 750 ml. 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 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.

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/directions above, this writ
petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.02.2019
Transmission Date	N/A

