

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.16835 of 2018**

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Murtuza Ali S/o Shamser Ali, resident of Village- Durgmatihania, P.S.-  
Bishwambharpur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Bihar Prohibition and Excise Department, Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Officer in Charge of Yadopur Police Station, District- Gopalganj.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Harendra Prasad, Advocate  
For the Respondent/s : Mr. Anil Kumar Sinha -GA-1

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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 : 11-03-2019**

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

The petitioner prays for provisional release of the  
motorcycle (Black colour Hero Passion Pro) bearing Registration  
No. UP-57F-6941, Engine No. HA10ED9GDO8062, Chasis No.  
MBLHA10ER9GD08649 which has been seized in connection  
Yadopur P.S. Case No. 66 of 2018 for the offence punishable under  
Sections 272 and 273 of the Indian Penal Code read with Section  
30(a) of the Bihar Prohibition and Excise Act, 2016.

Learned counsel for the State informs that confiscation  
proceeding has not been initiated and the vehicle in question is  
lying under the open sky in the police station. The seizure list



reflects the seizure of 336 bottles of IMFL each containing 180 M.L, total 60.48 litres of IMFL from the vehicle in question.

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 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 surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance document 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/-

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| <b>AFR/NAFR</b>          | NAFR       |
| <b>CAV DATE</b>          | NA         |
| <b>Uploading Date</b>    | 03.04.2019 |
| <b>Transmission Date</b> |            |

