

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17173 of 2018**

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Niraj Kumar, Son of Ram Pavitra Rai, Resident of Baburban, Parihar, P.S.-  
Parihar, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,  
Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Sitamarhi.
3. The Senior Superintendent of Police, East Sitamarhi.
4. Assistant Commandant E-Coy, SIST BN SSB, Sitamarhi.
5. Assistant Sub-Inspector Excise, Pupri, Sitamarhi.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Krishna Kant Singh, Advocate  
For the Respondent/s : Mr.Vikash Kumar- SC11

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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 : 18-02-2019**

Leave is granted to the learned counsel for the  
petitioner to correct the name of station of the respondent nos. 2  
and 3 in course of the day.

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

The petitioner prays for provisional release of the  
Motorcycle bearing Registration No. BR30D-2148, which has  
been seized in connection with Excise Case No. C2 261 of 2016  
for the offence punishable under Section 47A 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 1.5 liters of 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 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, 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 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 release 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)**

shailendra/ Nasimul

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