

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17579 of 2018

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Vivek Kumar Son of Ganaur Thakur, Resident of Village-Bhikhanpura, P.S.-
Deshri Chandpur O.P., Dist.-Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors.
2. The Collector Cum District Magistrate, Vaishali at Hajipur
3. The Superintendent of Excise, Vaishali at Hajipur.
4. The Superintendent of Police, Vaishali at Hajipur.
5. The Station Head Officer, Deshri Police Station, Dist.-Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anil Kumar
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 : 18-02-2019

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

The petitioner prays for provisional release of the
Motorcycle (TVS Apachi) bearing Registration No. BR-31AD-1183,
Engine No. BE4BJ2718559, Chasis No. MD634BE45J2B18930 which
has been seized in connection with Dehri (Chandpupra O.P.) P.S.
Case No. 98 of 2018 for the offence punishable under Section 30(a),
32(2), 34(a)(b), 36, 37(b) and 38(1) of Bihar Prohibition and Excise
Act, 2016.

It is stated by learned counsel for the petitioner that
confiscation proceeding is pending and the vehicle in question is
lying under the open sky in the police station. The seizure list
reflects the seizure of 45 litres of country made liquor.



Although the F.I.R. shows that the motorcycle in question was without number plate, thus, the Engine and Chasis number have been given but the writ petition mentions the registration number of the vehicle in question as BR-31AD-1183.

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 Collector -cum- District Magistrate, Vaishali at Hajipur 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 Collector -cum- District Magistrate, Vaishali at Hajipur 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 submissions of the one surety along with the Bank Guarantee and the undertakings as stated above. This release, however, would be subject to the final order passed in the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

