

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18471 of 2018

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Anand Kumar Rajbhar S/o Prabhunath Rajbhar, Resident of Village- Surwa
Gundi, P.O.- Sematar, P.S.- Guthani, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Excise, Saran Division Saran.
3. The District Magistrate, Siwan.
4. The Superintendent of Police, Siwan, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Akshay Lal Pandit
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 : 01-04-2019

Leave is granted to the learned counsel for the petitioner to correct the make of the motorcycle as mentioned in paragraph 1 and other places of the writ petition as well as in the pleadings of the respondents.

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

The petitioner prays for provisional release of the Hero Splendor Pro Motorcycle bearing Registration No. BR-29U-7907, Chasis No. MBLHA10CAGHA05909, Engine No. HA10EYGHA09591, which has been seized in connection



with Guthani P.S. Case No. 184 of 2018 for the offences punishable under Sections 272, 273/34 of the Indian Penal Code and sections 30(a), 37(b), 38(a), 41(1) 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 180 ml. 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 District Magistrate-cum-Collector, Siwan 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 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, the District Magistrate-cum-Collector, Siwan would get prepared a Panchanama 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 of the vehicle



would, however, be subject to finalization of the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.04.2019
Transmission Date	NA

