

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1324 of 2019

Naresh Kumar, son of Laxuman Das @ Lachhman Das, Resident of Village-Saran Near Gurudwara, Police Station-Chhaper, District- Yamuna Nagar, Haryana-133202

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department Bihar Patna
2. The Excise Commissioner, Bihar Prohibition and Excise Act 2016 Department Bihar Patna
3. The Excise Officer, Bihar Prohibition and Excise Act 2016 Department Bihar Patna
4. The District Collector, District-Patna, Bihar
5. The Superintendent of Police, District-Patna Bihar
6. The Officer in-Charge of Nadi Thana Police Station, District Patna

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Jay Ram Prasad
For the Respondent/s : Mr. Kumar Manish (Sc5)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)
Date : 10-05-2019

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

The petitioner prays for provisional release of the Truck bearing registration No. HR46C-3807, Engine No. 01J62928935, Chasis No. MAT 466404A5J0900, which has been seized in connection with Special Case No. 6672/2018 arising out of Nadi Thana P.S. Case No. 141/2018 for the offences punishable under the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 2658 litres of foreign liquor has been seized; the confiscation proceeding is



pending and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the truck and 2658 litres of foreign liquor.

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 papers with respect to vehicle in question before the Confiscating Authority i.e. District Magistrate, Patna with one local surety alongwith 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 further.

(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 District Magistrate, Patna 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 (local) alongwith the Bank Guarantee or title deed of immovable property situated in the district, to the extent of the value of the vehicle as indicated in the insurance document and the undertaking, as stated above. This release would, however, be subject to finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the confiscating authority subject to final decision in the confiscation proceedings.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.05.2019
Transmission Date	NA

