

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19665 of 2018

Nanki Devi @ Nanhki Devi, W/o Binod Singh @ Vinod Singh, Resident of Village- Banka, P.S. Hantagranj, District- Chatra, present Address.- Resident of Mohalla- Gewal Bigha, P.S.- Rampur, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Prohibition Excise Registration Department, Government of Bihar, Patna.
2. The Principal Secretary, Prohibition Excise Registration Department, Government of Bihar, Patna.
3. The Collector, Gaya.
4. The Superintendent of Police, Gaya.
5. The Superintendent of Excise, Gaya.
6. The S.H.O. Sherghati Police Station, District- Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pawan Kumar, Advocate
For the Respondent/s : Mr. Kumar Manish -SC5

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-04-2019

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

The petitioner prays for provisional release of the Auto vehicle bearing Registration No. BR-02M-5347, Chasis No. ZFMK 130587, which has been seized in connection with Sherghati P.S. Case No. 166 of 2017 for the offences punishable under Sections 272, 273, 414 of the Indian Penal Code read along with side Sections 30 (a), 32(d) of the Bihar Prohibition and Excise Act.

Learned counsel appearing on behalf of the petitioner



submits that he has no information about initiation of the confiscation. It is stated that the vehicle is lying in the police station. The seizure list reflects the seizure of 170 kg. of Mahua Flower.

Having heard learned counsel for the parties and taking note of the nature of seizure made, 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 submission of the sureties and the undertakings as stated above. This release would, however, be subject to initiation and finalization of the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Nasimul/Manish

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12-04-2019
Transmission Date	N/A

