

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19863 of 2018

Abinash Kumar son of Deepak Mishra, resident of Village- Niranjanpur, P.S.-
Sasaram, District- Rohtas at Sasaram.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Govt. of Bihar, Patna.
2. The Collector-cum-District Magistrate, Rohtas at Sasaram.
3. The Additional Collector (Legal) Rohtas at Sasaram.
4. The Excise Officer, Rohtas at Sasaram.

... .. Respondents

Appearance :

For the Petitioner/s	:	None
For the Respondent/s	:	Mr. Kumar Manish, SC 5

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 22-04-2019

None appears on behalf of the petitioner.

Mr. Kumar Pankaj, learned AC to SC 5 appears for the State to inform that final orders have been passed in the confiscation proceeding arising from the Confiscation Case No. 26/2017.

The writ petition is filed for provisional release of Pulsar motorcycle bearing Chasis No. MD2A82D28FCE36746, which has been seized in connection with Excise Case No. 100/2017 which in turn gave rise to Confiscation Case No. 26/2017. The seizure list reflects seizure of two liters of country made liquor and Confiscation Case was pending which as



informed by Mr. Kumar Pankaj, learned State Counsel has since been disposed of.

In such view of the matter and bearing note of the orders passed by this Court on such matters from time to time, 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 Confiscating Authority i.e. District Magistrate, Rohtas at Sasaram with two sureties (one local) 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 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 Confiscating Authority i.e. District Magistrate, Rohtas at Sasaram 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, which would however be subject to initiation and finalization of the confiscation proceeding, if any.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Archana/
Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.04.2019
Transmission Date	NA

