

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1736 of 2019**

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M/s Mercury Car Rental Pvt. Limited Through it's Regional Manager-East namely Mr. Rahul Sen, having it's registered office at 4 Mangoe Lane, Kolkata and Head Office at "AVIS House", Building No.-92, Sector - 44 Institutional Area, Gurugram-122002, Harayan.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-cum- Collector, Muzaffarpur.
3. The Excise Superintendent, Muzaffarpur.
4. The Officer-in-Charge, Paroo Police Station, Muzaffarpur.

... .. Respondents

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**Appearance :**

For the Petitioner/s : Md. Nazir Ansari, Adv.  
For the Respondent/s : Mr. Anil Kr. 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 : 30-01-2019**

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

The petitioner prays for provisional release of the Toyota Innova Crysta car bearing registration No. DL1NA0984, which has been seized in connection with Paroo P.S. Case No. 443/2018 for the offences punishable under sections 279, 337, 338, 427, 272 and 273 of the Indian Penal Code and Sections 30(a) and 36 of the Bihar Prohibition and Excise Act, 2016.



Petitioner is a limited company running business of providing car rental and hire services to business, corporate and leisure travelers in India.

Mr. Dhurwa Mukherjee, learned Senior Counsel appearing for the petitioner submits that it is in violation of the Hire Purchase Agreement that the car was used for the purposes which was in violation of the Bihar Prohibition and Excise Act, 2016 and which led to recovery of 239 litres of Foreign liquor.

It is stated by learned counsel for the State that 239 litres of Foreign liquor has been seized; the confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the car and 239 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 yet to be initiated, 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 court below 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 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 production of ownership/registration papers



supporting the claim of the petitioner together with one surety (local) alongwith the Bank Guarantee to the extent of the value of the vehicle as indicated in the insurance document and the undertaking, as stated above. This would, however, be subject to the final order passed in the confiscation proceeding.

With the observations above, this writ petition is allowed.

**(Jyoti Saran, J)**

**( Arvind Srivastava, J)**

Archana/  
Surendra/-

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