

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.892 of 2019

Subodh Sah Son of Ramdev Sah Resident of Village- Ward No. 16, Koili
Semra, Simra, Police Station- Tikkapati, District- Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Excise Department,
Government of Bihar, Patna
2. The Divisional Commissioner, Excise Department, Purnea.
3. The District Magistrate, Purnea.
4. The Sub- Inspector, Excise, Excise Circle, Purnea. District- Purnea.
5. The Officer-in-Charge, Police Station- Rupauli, District- Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vikram Singh
For the Respondent/s : Mr. Anil Kr. Sinha

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 for the State.

It is submitted that while the registration number of the tractor mentioned in the main application, an interlocutory application bearing I.A. No. 1 of 2019 is filed and Mr. Vikram Singh learned counsel for the petitioner prays for inclusion of the number of the trailer in the main application and for treating the interlocutory application as a part of the main application making reference to the seizure list enclosed with the writ petition at Annexure-2 to the writ petition.



We permit him to do so and let I.A. No. 1 of 2019 be treated as main application and include the prayer of the release of the trailer as well.

The petitioner prays for provisional release of the tractor and trailer bearing Registration No. BR-10GA-8649, Engine No. E3343327, Chasis No. T053307305DE and Registration No. BR-10-GA-8652, Engine No. E3343327, Chasis No. TO53307305DE, respectively which has been seized in connection with Rupauli P.S. Case No. 123 of 2018 for the offences punishable under Sections 272 and 273 of the Indian Penal Code read along with side Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that confiscation proceeding is not initiated and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 55 liters 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 not initiated, 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 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 Panchnama would be 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 production of ownership/registration papers



supporting the claim of the petitioner together with one surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance document and the undertakings as stated above. This would, however, be subject to the final order passed in the confiscation proceeding as and when initiated.

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

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2019
Transmission Date	NA

