

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.21880 of 2018**

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Jamaluddin Mir, son of Rajak Mir Resident of Village-Chainpur P.S. Chainpur  
District-Kaimur at Bhabua.

... .. Petitioner

Versus

1. The State of Bihar through Secretary Excise Department Patna Bihar.
2. The District Magistrate Kaimur at Bhabua.
3. The Superintendent of Police, Kaimur at Bhabua.
4. S.H.O. Chainpur Police Station Kaimur at Bhabua (Bihar).

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr. Dharmendra Kumar Singh, Adv.  
For the Respondent/s : Mr. Vikash Kumar, SC 11

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**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**

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

The petitioner prays for provisional release of the Hero  
Passion Pro motorcycle bearing registration No. BR 45J 5141,  
Engine No. HA10 ACJHE96003, Chasis No. MBLHAR 187JHE  
38044, which has been seized in connection with Chainpur P.S.  
Case No. 259 of 2018 for the offences punishable under section  
30(A) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 03  
litres of IMFL 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 motorcycle and 03 litres of IMFL.

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 with respect to vehicle in question in his name before the Confiscating Authority i.e. District Magistrate, Kaimur at Bhabua 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, Kaimur at Bhabua 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/-

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| AFR/NAFR          | NAFR       |
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