

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1283 of 2019

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Vishwanath Yadav, Son of Pavitra Yadav, Resident of Village- Bedaul, P.S.- Darbhanga (Sadar), District- Darbhanga (Bihar).

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The District Magistrate-Cum- Collector, Darbhanga, District- Darbhanga (Bihar).
4. The Superintendent of Excise, Darbhanga, District- Darbhanga (Bihar).
5. The Superintendent of Police, Darbhanga, District- Darbhanga (Bihar).
6. The Officer-in-Charge, Darbhanga (Sadar) Police Station, District- Darbhanga (Bihar).

... .. Respondents

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr.Vivek Prasad, GP 7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 21-01-2019

None appears of behalf of the petitioner. Learned counsel appearing on behalf of the State is present.

The petitioner prays for provisional release of the Bajaj Platina 100 ES Motorcycle bearing Registration No. BR-07AA-7152, Engine No. PFYRHL22848, Chasis No. MB2A76AY3HRL84705, which has been seized in connection with Darbhanga (Sadar) P.S. Case No. 371/2018 for the offences punishable under section 30(A) of the Bihar Prohibition and Excise Act, 2016.



From the records it transpires that 2.775 ltr. of Royal Stag Whisky has been seized; no information has been given regarding the confiscation proceeding and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the motorcycle and 2.775 ltr. of Royal Stag Whisky.

Having heard learned counsel for the State 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 court below 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 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, which would however be subject to initiation and finalization of the confiscation proceeding, if any.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Archana/
Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.01.2019
Transmission Date	NA

