

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1917 of 2019

Chitranjan Kumar, son of Dwarika Ray @ Dwarika Rai, resident of village-
Jolgawa, Madhopur, P.S. Turkauliya, Distt. East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principle Secretary, Registration Excise and Prohibition Department, Government of Bihar, Patna.
3. The Collector-Cum- District Magistrate, East Champaran Motihari.
4. The Superintendent of Police, East Champaran, Motihari.
5. The Superintendent of Excise, East Champaran, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma, Adv.

For the Respondent/s : Mr.Vivek Prasad, GP-7.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 04-02-2019

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

The petitioner prays for provisional release of the
TVS Apache Motorcycle bearing Registration
No.BR05AA6752, Chasis No.MD634BE4XJ2B07292,
Engine No.BE4BJ2407148, which has been seized in
connection with Turkauliya P.S. Case No. 384 of 2018 for
the offences punishable under sections 30(A), (35(A), 38(1),
38(2) and 41(1) of the Bihar Prohibition and Excise Act,
2016.



It is stated by learned counsel for the petitioner that 934.20 litres of foreign liquor has been seized; the confiscation proceeding is yet to be initiated; the vehicle is lying under the open sky in the police station and there is no recovery from the motorcycle. The seizure list supports the seizure of the TVS Apache Motorcycle and 934.20 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 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 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) along with the Bank Guarantee or title deed of immovable property situated in the district, 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. The title deed papers if deposited, shall remain in safe custody of the confiscating authority subject to final decision in the confiscation proceedings.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Anjula/Skpathak

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.02.2019
Transmission Date	NA

