

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.49 of 2019

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Dhananjay Pandey S/o Bhagwati Pandey, R/o Village- Pandey Bigha, P.S.-
Amba, District- Aurangabad, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Principal Secretary, Department of Excise, Govt. of Bihar, Patna.
3. The District Magistrate, Aurangabad (Bihar).
4. The Superintendent of Police, Aurangabad, Bihar.
5. The District Transport Officer, Aurangabad, Bihar.
6. The Officer-in-Charge, Amba Police Station, District- Aurangabad, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr.

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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 : 03-05-2019

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

The prayer is for provisional release of the Tempo
bearing Registration No. BR-26PA-0760, which has been seized in
connection with Amba P.S. Case No. 83 of 2018 for the offences
punishable under Section 30 (a)/38 of the Bihar Prohibition and
Excise Act.



Counsel for the State informs that there was a recovery of total 120 liters of country/spiced liquor from the tempo and Confiscation Case No. 486 of 2018 has been initiated.

Having heard learned counsel for the State 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 District Magistrate, Aurangabad 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 future.

(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 got prepared by the District Magistrate, Aurangabad, 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 amount and the undertakings as stated above. This release of the vehicle would, however, be subject to finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the Confiscating Authority subject to final decision in the confiscation proceedings.



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

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16/05/2019
Transmission Date	N.A.

