

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5116 of 2019**

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1. Kamlesh Kumar son of Ram Prasad Sah resident of Village- Piraukhar, Kayastha Tola, PS- Madhwapur, District- Madhubani.
  2. Adarsh Kumar son of Nunnu Sah resident of Kayastha Tola, Piraukhar, PS Madhwapur, District- Madhubani.
  3. Ram Dev Sah son of Lakshami Sah resident of Village- Basuki Bihari, PS- Madhwapur, District- Madhubani.
  4. Vipin Kumar son of Ram Chandar Mahto resident of Village- Taraiya, PS- Saharghat, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home (Police) Department of Bihar, Patna.
2. The Principal Secretary, Excise and Prohibition Department Government of Bihar, Patna.
3. The Director General of Police Bihar, Patna.
4. The District Magistrate, Sitamarhi.
5. The Superintendent of Police Sitamarhi.
6. The S.H.O., Sursand P.S., District- Sitamarhi.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Ashhar Mustafa  
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 : 29-04-2019**

Heard learned counsel for the petitioners and learned  
Counsel for the State.

The petitioners pray for provisional release of the  
motorcycle in so far as petitioner No.1 is concerned, bearing  
Registration No. BR30U6197, in so far as petitioner No.2 is



concerned, bearing Engine No. JBYRJE60231, Chassis No. MD2A15AY1JRE29841, in so far as petitioner No.3 is concerned, bearing Registration No. BR32R1842 and in so far as petitioner No.4 is concerned, bearing Registration No. BR32V4903 which have been seized in connection with Sursand P.S. Case No. 271 of 2018 for the offences punishable under Section 414 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 petitioners that confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 305 liters of Nepali 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(s) on production of ownership and registration with respect to vehicle in question in their names 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(s) 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(s) 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(s) 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 court below wherein the photograph of the vehicle shall be taken and will be certified by the petitioner(s) 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(s) 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(s) 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/-

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