

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1576 of 2019

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Jitender, S/o Suresh Ludana, Resident of Ludana, P.S.-Jind Distt.-Jind,
Harayana.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, the Excise Department,
Government of Bihar, Patna.
2. The Collector, Araria.
3. The Superintendent of Police, Araria.
4. The Deputy Superintendent of Police, Araria.
5. Nitranjan age 42 years, Male, S/o Late Ram Sevak Singh A.S.I., P.S.-Araria,
Distt.-Araria.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Abhijeet Gautam, Adv.
For the Respondent/s : Mr. Kumar Manish, SC-5.

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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 : 17-05-2019

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

This application has been filed seeking provisional
release of the Mahindra Scorpio vehicle bearing registration No.
HR-46B-4600, which has been seized in connection with Excise
Spl. Case No. 552/2018 arising out of Araria P.S.Case No.
262/2018 registered under section 30(a)/38(a) of the Bihar Excise
and Prohibition Act, 2016.



Learned counsel for the petitioner submits that for recovery of 144 litres of Cough Syrup, the vehicle in question has been seized because according to the respondent, it is capable of being used as a substitute for an intoxicant. It is submitted that confiscation proceeding is pending.

Learned counsel for the State has not been able to clarify that whether or not the cough syrup so seized comes in the prohibited category of intoxicant or spirit or liquor or fermented liquor or illicit liquor under the Bihar Prohibition and Excise Act, 2016.

Having heard learned counsel for the parties and in the given facts and circumstances where confiscation proceeding is presently pending and the seizure is of cough syrup, let the vehicle in question be released in favour of the petitioner on the petitioner's producing the document of ownership and registration in his name before the District Magistrate, Araria with two sureties to the extent of the value of the vehicle as indicated in the insurance document and an undertaking that he will not create third party rights during pendency of the proceeding.

The release shall be allowed within a period of 14 days from the date of production of ownership papers before the District Magistrate, Araria with the sureties along with the undertaking as



stated above. This release, however, would be subject to the final order passed in the confiscation proceeding, if any.

The petitioner shall be at liberty to raise the issues whether or not the seized goods comes within the prohibitory jurisdiction of ‘the Act’.

The writ petition is allowed to the extent as stated hereinabove.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.05.2019
Transmission Date	NA

