

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2219 of 2019

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1. Himanshu Kumar Singh, S/o- Rajendra Singh.
 2. Deva Kumar Singh, S/o Shyam Kumar Munu.
- Both Resident of Village- Amrai Nawada, P.S. - Bihiya, District- Bhojpur, Ara.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Bihar, Patna.
2. The Excise Commissioner, Bihar Prohibition and Excise Act 2016.
3. The Excise Officer, Bihar Prohibition and Excise Act 2016.
4. The District Magistrate, Bhojpur, Ara.
5. The Superintendent of Police, District- Bhojpur, Ara, Bihar.
6. The Officer- Incharge of Sahpur, P.S. Bhojpur, Ara.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Rajiva Ranjan, 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 : 07-02-2019

Defect so pointed out by the office is ignored.

With the consent of the parties the matter is taken up for consideration at the Admission stage itself.

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

The petitioners pray for provisional release of the (1) motorcycle bearing registration No. BR03W-3216, Chassis No. ME4KC229GH8031947 and one Samsung Mobile J6 IMEI No. 359245092428513 which belongs to the Petitioner No. 1 Himanshu Kumar Singh (2). motorcycle vide Registration No.



BR03X-8106, Chassis No. MD2A11CY9JRA13011 and one mobile phone which belongs to petitioner no. 2 Deva Kumar Singh, which has been seized in connection with Sahpur P.S. Case No. 283/2018 for the offences punishable under the provisions of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 76.500 litres of foreign liquor from the motorcycle no. BR03W-3216 and 51.840 litres of foreign liquor from the motorcycle no. BR03X-8106 have been seized; the confiscation proceeding is yet to be initiated and the vehicles are lying under the open sky in the police station. The seizure list supports the seizure of the both motorcycle and 76.500 litres and 51.840 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 vehicles in question be released provisionally in favour of the petitioners on production of ownership and registration papers with respect to vehicles in question before the court below with one local surety alongwith a Bank Guarantee or original title deed of immovable property situated within the District to the extent of the value of the vehicles as indicated in the insurance document. The petitioners 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 vehicles 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 petitioners 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 petitioners shall furnish an undertaking to produce the vehicles before the confiscating authority as and when required.

(iv) Prior to release of the vehicles, a Panchanama would be prepared by the court below wherein the photograph of the vehicles shall be taken and will be certified by the petitioners and the same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioners 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 petitioners together with one surety



(local) alongwith the Bank Guarantee or title deed of immovable property situated in the district, to the extent of the value of the vehicles 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 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)

Archana/
Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.02.2019
Transmission Date	NA

