

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2833 of 2019

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Rakesh Kumar Gupta @ Rakesh Kumar (Male), aged about 37 years, S/O
Kishori Lal R/O Village Brahampur PS Phulwarisharif, District Patna
... .. Petitioner

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 Patna Bihar
 5. The Senior Superintendent of police Patna Bihar
 6. The Assistant Sub Inspetor Excise Danapur District Patna
- Respondents

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Appearance :

For the Petitioner/s : Mr. Rajiva Ranjan
For the Respondent/s : Mr. Kumar Manish (Sc5)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 19-02-2019

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

The petitioner prays for provisional release of the
PIAGGIO APE bearing registration No. BR01PA9859, Engine No.
ROG2827018, Chasis No. MBX0000DFMG087087, which has been
seized in connection with Special Case No. 5919/2018 for the
offences punishable under sections 30(a) of the Bihar Prohibition and
Excise Act, 2016.

It is stated by learned counsel for the petitioner that 300
litres of Toddy has been seized; the confiscation proceeding is yet to
be initiated and the vehicle is lying under the open sky in the police



station. The seizure list supports the seizure of the vehicle and 300 litres of Toddy.

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 alongwith 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) alongwith 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 release would, however, be subject to initiation and 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 above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2019
Transmission Date	NA

