

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3522 of 2019

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Dhiraj Kumar Son of Makuni Sah Resident of Village- Jagdishpur, P.S.-
Jegdishpur, District-Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar and Ors through its Principal Secretary Excise Department
2. The District Magistrate, Ara Bihar
3. The Superintendent of Police, Ara Bihar
4. The Officer-IN-Charge Ara Nawada, Police-Station and District-Bhojpur Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiv Prasad Gupta
For the Respondent/s : Mr. Anil Kr. Sinha (Ga1)

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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 : 28-02-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

This application has been filed seeking provisional
release of the vehicle (Tempo) bearing Registration No. BR-
03PA-2294, Engine No. R5K2698470 and Chasis No.
MBX001CFTK165414 which has been seized in connection
with Ara Nawada P.S. Case No. 591 of 2018 corresponding to
Excise Case No. 1389 of 2018 for the offence punishable under
Sections 30(a) of Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner states that as per
the seizure list 6 litres of IMFL have been recovered from the



vehicle in question. It is submitted that confiscation proceeding with respect to vehicle in question is pending. Learned counsel for the petitioner submits that the vehicle in question is lying under open sky in the Police Station.

Having heard learned counsel for the parties and taking note of 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 the document of ownership and registration with respect to vehicle in question in his name before the District Magistrate, Ara with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the sureties 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, Ara 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 submission of the sureties along with the undertakings as stated above. This release, however, would be subject to the final order passed in the confiscation proceeding.

The writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

brajesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

