

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5082 of 2019

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Akhilesh Prasad S/o-Madhusudan Singh R/o Vill.-Malpur, PS-Khushrupur,
Distt.-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Department of Excise, Bihar, Patna.
2. Secretary, Department of Excise, Bihar, Patna
3. The District Magistrate cum Collector Patna, at Patna
4. The Superintendent of Police (Rural) Patna at Patna
5. The S.H.O. Daniyawan, P.S. Daniyawan, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amresh Kumar Sinha
For the Respondent/s : Mr.Kumar Manish (Sc5)

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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

A counter affidavit is being filed, let it be taken on
record.

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

The petitioner prays for provisional release of the
Motorcycle(Honda Shine) bearing Registration No. BR01BL
8258, Chasis No. ME4JC36JEC7050522 Engine No. JC36E
7075296, which has been seized in connection with Daniyawan
P.S. Case No. 133 of 2018 for the offences punishable under
Section 30(a)/38(ii) of Bihar Prohibition and Excise Act, 2016.



It is stated by learned counsel for the petitioner that confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 40 litres of illicit 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 pending, we direct that the vehicle in question be released provisionally in favour of the petitioner on production of ownership and registration with respect to vehicle in question in his name before the District Magistrate, Patna 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 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 District Magistrate, Patna 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 and the undertakings as stated above. This release would however, be subject to initiation and finalization of the confiscation proceeding if any.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.05.2019
Transmission Date	NA

