

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4945 of 2019**

=====

Pankaj Chaudari @ Pankaj Kumar Chaudhary aged about 34 years (Male)  
Son of Bharat Chaudhari Resident of Village-Bhadawa, Police Station-  
Masaurdhi, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,  
Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna.
4. The Excise Superintendent, Patna.
5. The Officer-in-charge, Masaurdhi, District-Patna

... .. Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Surendra Kumar Mishra  
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 : 29-03-2019**

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

The petitioner prays for provisional release of the  
Tata Zest Car bearing Registration No. BR-0PZ-7656, which  
has been seized in connection with Masaurdhi P.S. Case No. 994  
of 2018 for the offence punishable under Section 30(a), 37(C)  
and 38 of the Bihar Prohibition and Excise (Amendment) Act.

It is stated by learned counsel for the petitioner that  
confiscation proceeding is yet to be initiated and the vehicle is



lying under the open sky in the police station. The seizure list reflects the seizure of 1.5 liters of I.M.F.L.

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 with respect to vehicle in question in his name before the designated court below with two sureties 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, as and when initiated, 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, the designated Court below would get prepared a Panchanama 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.

With the observations/directions above, this writ petition is allowed.

**(Jyoti Saran, J)**

**( Arvind Srivastava, J)**

mcv/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 10.04.2019 |
| Transmission Date | NA         |

