IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3196 of 2019

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Sita Chaudhary aged about 62 years, male, S/o Natho Chaudhary R/O Mohalla- Bairiya Tand,P.S. Sirdalla, Dist.-Nawada

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Govt. of Bihar, Patna
2. The District Magistrate, Nawada
3. The Superintendent of Police, Nawada
4. The S.H.O. Sirdalla P.S. Dist.-Nawada

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Man Mohan Kumar
For the Respondent/s : Mr.Vikash Kumar (SC11)

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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 : 22-02-2019

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

The petitioner prays for provisional release of Honda CB125 Shine Motorcycle bearing Registration No. BR-27J-5468, Engine No. JC65E71179115, Chasis No. ME4JC656FH7002789, which has been seized in connection with Sirdalla P.S. Case No. 284 of 2018 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the petitioner

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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 50 Liters of country made 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 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 one surety along with 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 future.

(ii) That the petitioner shall not indulge in

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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, 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 along with the bank guarantee to the extent of the value of the vehicle as

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indicated in the insurance document and the undertakings as stated above. This release would, however, be subject to the initiation and finalization of the confiscation proceeding as and when initiated. The title deed papers, if produced, shall remain in safe custody of the court below subject to final decision in the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.03.2019
Transmission Date	NA

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