

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4125 of 2019

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Lal Ji Sah, Male, aged about 29 years, Son of Sri Shiv ji Sah, Resident of Village at Jorwarpur Milki, P.O.-Gajrajganj, P.S. Ara Muffasil Ara, District-Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise and Prohibition, Government of Bihar, Patna
2. The District Magistrate, Bhojpur (Ara)
3. The Senior Superintendent of Police, Bhojpur (Ara)
4. The Incharge of Ara Nagar Police Station Bhojpur (Ara)

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Singh, Advocate
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 : 07-03-2019

Heard.

The prayer is for provisional release of the Hero Motorcycle bearing Registration No. BR03R 6860, Chasis No. MBLHA10BFHJ12796, Engine No. HA10ERFHJ 13426, which has been seized in connection with Ara Town P.S. Case No. 491 of 2018 for the offences punishable under Sections 30/36 of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the State informs 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 10 liter country liquor.

Having heard learned counsel for the State 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, if any, 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 designated 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 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)

Nasimul/Shailendra

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16-03-2019
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