

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3235 of 2019

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Ranjeet Kumar Yadav @ Khakhua, age about 32 years, son of Shudarshan Yadav R/o Village- Chandi, P.S.-Haspura, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner Excise Department, State of Bihar, Patna
2. The Collector Cum District Magistrate. Aurangabad.
3. The Superintendent of Police, Aurangabad.
4. The Officer In-Charge of Haspura, Police Station, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Tribhuwan Narayan
Ms. Mukul Kumari, Advocates
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 appearing on behalf of the State.

The petitioner prays for provisional release of the Hero Honda Glamour Motorcycle bearing Registration No. BR-26A- 9787, a Lava Mobile Phone and cash of Rs. 3280/-, which have been seized in connection with Haspura P.S. Case No. 127



of 2017 for the offences punishable under Sections 30(a) and 38 of the Bihar Prohibition and Excise 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 4.750 ml filled in a water bottle and 800ml in four pouches 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 , the Lava Mobile and the cash of Rs. 3280/- recovered from the petitioner, be released provisionally in favour of the petitioner on production of ownership and registration with respect to vehicle and mobile 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, 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 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	01-03-2019
Transmission Date	NA

