

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3067 of 2019

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Sandeep Kumar @ Sandeep Kumar Kushwaha, son of Bed Prakash Prasad @ Ved Prakash Kushwaha, Resident of village- Hajpurwa, P.S- Pachrukhi, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Govt. of Bihar, Patna.
2. The District Magistrate, Siwan.
3. The Superintendent of Police, Siwan.
4. The Officer in Charge, Pachrukhi, P.S, District-- Siwan Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh, Adv.
For the Respondent/s : Mr.Vikash Kumar, SC-11

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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 : 21-02-2019

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 Splendor Plus Motorcycle bearing registration No. BR-29U-7487, Chassis No. MBLHA10CGFHM64453, Engine No. HA10ERFHM10953, which has been seized in connection with Pachrukhi P.S. Case No.277 of 2018 District Siwan for the offences punishable under sections 272, 273 and 308 of the Indian Penal Code and section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that



17 litres of Foreign wine has been seized; the confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the motorcycle and 17 litres of Foreign wine.

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 Collector cum District Magistrate, Siwan 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 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 Collector cum District Magistrate, Siwan 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, which would however be subject to finalization of the confiscation proceeding.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

skpathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.02.2019
Transmission Date	NA

