

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3721 of 2019

Amirilal Yadav, aged about 66 years, Male, Son of Late Jailal Yadav, Resident of Village-Gobrahi P.O. Kuadh P.S. Jainagar District-Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary of Department of Excise, Patna, Bihar
2. The District Magistrate, Madhubani
3. The Incharge of Police Station Jainagar, District-Madhubani

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Md. Soban Asghar, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP7)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 05-03-2019

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

The petitioner prays for provisional release of the
Motorcycle bearing Registration No. BR32S 4423, Chasis No. M
B L H A 10BSGHH 38782, Engine No. HA10EVGHH 42706, which
has been seized in connection with Deodha P.S. Case No. 113 of
2018 for the offences punishable under Sections 272 and 273 of
the Indian Penal Code and Section 30(a) 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 9 liters of Nepali country 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 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 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)

shailendra/Nasimul

AFR/NAFR	NAFR
CAV DATE	N/A
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