

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16775 of 2018

Meraj Ansari Son of Mnjur Alam @ Manjoor Alam, Resident of Village-
Betiya P.S.-Padrauna, District-Kushinagar, Uttar Pradesh.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The District Magistrate, East Champaran.
3. The S.H.O. Chakia, P.S. Dist-East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dilip Kumar Tondon
For the Respondent/s : Mr.Anil Kumar Sinha -GA1

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 25-02-2019

Leave is granted to the learned counsel for the petitioner to make modifications in paragraphs 6 and 9 of the writ petition in so far as the vehicle in question which reads as motorcycle in place of Scorpio.

While Mr. Pawan Kumar, AC to GA 1 objects to the prayer by submitting that not only liquor but also 500 grams of Charas have been recovered from the petitioner, counsel for the petitioner without disputing the position submits that the recovery of charas is slightly above the small quantity and much below the commercial quantity.

The petitioner prays for provisional release of



Scorpio bearing Registration No. UP32DF5142, Engine No. HEA4F39397, which has been seized in connection with Chakia P.S. Case No. 334 of 2017 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act and Sections 20/22/24 of the NDPS 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 42.48 liters of IMFL.

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 (Local) 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 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, the designated Court below would get prepared a Panchanama 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 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. 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	N/A
Uploading Date	08.03.2019
Transmission Date	N/A

