

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17788 of 2018

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Rajendra Kamati @ Rajendra Kamat Son of Puran Kamati, Resident of
Village-Bhalwahi, P.S.-Siraha, District-Siraha Nepal.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Excise and Prohibition, Govt. of Bihar, Patna
2. The District Magistrate, Madhubani.
3. The Superintendent of Police, Madhubani.
4. The Officer-in-Charge, Laukha, District-Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Jha
For the Respondent/s : Mr.Anil Kr. Sinha- Ga1

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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 : 18-02-2019

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

The petitioner prays for provisional release of the
Apache Motorcycle bearing Registration No. S4P-8078, Chasis
No. MD634KE67D2K98270, Engine No. 0E6KD2236070, which
has been seized in connection with Laukaha P.S. Case No. 281 of
2017 for the offences punishable under Sections 272/273 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 pending and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 10.800 Liters of Nepali 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 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 District Magistrate, Madhubani, with two sureties (one local) 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 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 District Magistrate, Madhubani 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 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	26-02-2019
Transmission Date	NA

