

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3108 of 2019

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Ganesh Mangrait, Son of Gannu Mangrait, Resident of Village- Chhatapur
Ward No. 17, P.S. Chhatapur, District- Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The Principal Secretary, Department of Excise, Government of Bihar, Patna.
3. The District Magistrate, Supaul.
4. The Superintendent of Police, Saharsa.
5. The Sub-Inspector, Chhatapur Police Station, District- Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Choudhary, 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

Learned counsel for the petitioner informs that as per the seizure list along with the motorcycle a cash amount of Rs.12,600/- has also been recovered but due to inadvertence could not be included in the writ petition for which he seeks leave and also makes prayer for release of the same.

Leave is granted to the learned counsel for the petitioner to amend paragraph 1 of the writ petition in the court pleadings as well as in the pleadings of the State Counsel during the course of the day.

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. BR39H-0855 and Rs.12,600/-, which has been seized in connection with Chhatapur P.S. Case No.301 of 2018 District Supaul for the offences punishable under section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 1 litre 35 ml. of Foreign wine has been seized; the confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the motorcycle, 1 litre 35 ml. of Foreign wine and Rs.12,600/-.

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 and amount of Rs.12,600/- 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 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 designated 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, which would however be subject to initiation and finalization of the confiscation proceeding, if any.

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

