

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16318 of 2018

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Gyanti Devi Wife of Hansnath Sah resident of Bhada Kurd, P.O. -
Mohiuddipur, P.S. - Muffasil Siwan, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar and Ors.
2. The Collector-cum-District Magistrate, Siwan.
3. The Superintendent of Excise, Siwan.
4. The Superintendent of Police, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ravi Bhushan Verma, Adv.
For the Respondent/s : Mr.Kumar Manish - SC5

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 21-01-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

This application has been filed seeking provisional
release of the vehicle (Black colored Splender Motorcycle)
bearing Registration No. BR29AC 6368, Chasis No.
MBLHAR0077 HHJ 41694 Engine No. HA10AGHHJ4665
seized in connection with Siwan Town P.S. Case No. 369 of 2018
registered under Section 30 (a) of the Bihar Prohibition & Excise
Act, 2016.

Learned counsel for the petitioner states that from the
vehicle in question 5.625 liters illicit liquor have been recovered.
It is submitted that no confiscation proceeding for the vehicle in
question is pending.



Learned counsel for the petitioner submits that the vehicle is lying under open sky under the Police Station and if release is not allowed the vehicle is likely to become a junk and in such circumstance, the State is not going to gain anyway in confiscation proceeding. Learned counsel submits that the petitioner is willing to provide such surety and undertakings which may be required to protect the interest of the State during the pendency of the confiscation.

Having heard learned counsel for the parties and in the given facts and circumstances where no confiscation proceeding is presently pending, let the vehicle in question be released provisionally in favour of the petitioner on the petitioner's producing the document of ownership and registration in his name before the court below 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 Panchnama would be 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 Panchnama in course of trial.

The release shall be allowed within a period of 14 days from the date of submission of the sureties along with the undertakings as stated above. This release, however, would be subject to the final order passed in confiscation proceeding.

The writ petition is allowed.

(Jyoti Saran, J)

Bibhash/-

(Nilu Agrawal, J)

AFR/NAFR	
CAV DATE	NA
Uploading Date	06.02.2019
Transmission Date	NA

