

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16220 of 2018

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Ashok Kumar Yadav, S/o Bundi Yadav, resident of Village- Nirsha Kanta,
P.S.- Nirsha Kanta, District- Dhanbad (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Govt. of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Munger.
3. The Superintendent of Police, Munger.
4. The S.H.O. , Lariyatand Police Station, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. Anil Kr. Sinha- GA-1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

2 07-01-2019 Heard learned counsel for the petitioner and

learned Counsel for the State.

The petitioner prays for provisional release of

the Hero Super Splendor motorcycle bearing

Registration No. JH10AN-1350, which has been seized in

connection with Lariyatand P.S. Case No. 10 of 2018 for

the offences punishable under Sections 30, 32 of the

read along with side under Section 2e/3/5(6)/18 of the

Bihar Mahua Flower Act 2016.

It is stated by the learned counsel for the

petitioner that no confiscation proceeding is pending



and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 40 kg. Mahua flower.

Having heard learned counsel for the parties and taking note of the nature of seizure made as well as the fact that no 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 court below with one surety 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 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 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 the 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 amount and the undertakings as stated above. This would, however, be subject to the final order passed in the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

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