

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5219 of 2019

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Jay prakash Kumar aged about 29 yers S/o Vinod Kumar Vill.-Jolha
Tetariya,Helthdoher P.s.-Pratapur, Distt.-Chatra (Jharkhand)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration Excise and Prohibition Department of Bihar, Patna
2. The District Magistrate Gaya
3. The Superintend of Excise Gaya
4. The S.H.O. of Guraru P.s.- Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vinod Kumar
For the Respondent/s : Mr.Vivek Prasad (GP7)

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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 : 09-04-2019

None appears for the petitioner. Learned counsel
appearing for the State is present.

The prayer of the petitioner is for provisional release
of the Hero Glamour Motorcycle bearing Registration No. JH-
13B-4448, which has been seized in connection with Guraru P.S.
Case No. 161 of 2018 for the offences punishable under
Sections 30 (a) of the Bihar Prohibition and Excise Act.

Learned counsel for the State informs that seizure list
reflects seizure of 40 liters of Mahua liquor. He further informs



that there is pleading to the effect that the confiscation proceeding has not yet been initiated.

Having heard learned counsel for the State 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 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, 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 Court below would got 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 submission of the sureties and the undertakings as stated above. This release of the vehicle would, however, be subject to initiation and 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	17.04.2019
Transmission Date	NA

