IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3801 of 2019

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Ram Naresh Singh, aged about 72 years (Male), S/o Ram Baran Singh, Resident of Village- Kerka, P.S.- Nabinagar, District- Aurangabad (Bihar).

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Excise, Govt. of Bihar, Patna.
3. The District Magistrate-Cum-Collector, Aurnagabad, Bihar.
4. The Superintendent of Police, Aurangabad, Bihar.
5. The District Transport Officer, Aurangabad, Bihar.
6. The Officer-in-charge, NTPC Khaira Police Station, District- Aurangabad, Bihar.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Alka Singh, Advocate
For the Respondent/s : Mr. Vikash Kumar (SC11)

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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 : 07-03-2019

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

The petitioner prays for provisional release of the Motorcycle (Hero Splendor Pro) bearing Registration No. BR-26J-0244, Chasis No. MBLHA10BMFHD05341, Engine No. HA10ERFHD54530, which has been seized in connection with NTPC Khaira P.S. Case No. 48 of 2018 for the offences punishable under Sections 30(a)/ 37(b)(c) of the Bihar Prohibition and Excise Act.

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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 liters country 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-cum-Collector, Aurangabad, Bihar 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 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

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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-cum-Collector, Aurangabad, Bihar 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)

Nasimul/Shailendra

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16-03-2019
Transmission Date	N/A

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