

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17192 of 2018

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Shyam Kr. Kushwaha @ Shyam Kumar Kushwaha @ Shyam Kumar, S/o late Shivji Prasad @ Shivji Bhagat, R/o Village- Barjee, P.S.Motipur, Distt. Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The Collector Cum District Magistrate, Muzaffarpur.
3. The Superintendent of Police, East Champaran, Motihari.
4. The Station House Officer SHO, Siwipatti, Police Station, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jai Prakash Verma
For the Respondent/s : Mr.Kumar Manish- Sc5

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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 : 18-02-2019

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

The petitioner prays for provisional release of the
four wheeler Swift ZDI of Maruti Suzuki bearing Chasis No.
D55842 Engine No. 709639, which has been seized in
connection with Siwaipatti P.S. Case No. 132 of 2017 for the
offences punishable under Sections 272, 273/34 of the Indian
Penal Code and Sections 30(a), 38, 41 and 48 of the Bihar
Prohibition and Excise Act.

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 17.625 liters of IMFL.

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 Collector-cum-District Magistrate, Muzaffarpur, 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



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 Collector-cum-District Magistrate, Muzaffarpur 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)

shailendra/-

(Arvind Srivastava, J)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.02.2019
Transmission Date	N/A

