

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17107 of 2018

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Niraj Kumar Singh son of Dharendra Singh @ Dhiren Singh Resident of Village - Gamaharia, Police Station - Araria Madanpur O.P., District - Araria.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
3. The District Magistrate, Kishanganj.
4. The Superintendent of Police, Kishanganj.
5. The Station House Officer, Terhagachh Police Station, Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh
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 : 25-02-2019

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

This application has been filed seeking provisional release of the Mobile (Gionee R103) Pro bearing IMEI No. 861597039163897 & 861897039913895 and Motorcycle (Hero Glamour) bearing Registration No. BR11A-4851, Chasis No. MB LJA06AMGGG26720 and Engine No. JA06EJGGG27532, which has been seized in connection with Terhagachh P.S. Case No. 57 of 2018 corresponding to Special Case No. 180 of 2018 for the offence punishable under Sections 30(a) and 41(1) of Bihar Prohibition and Excise Act, 2016.



It is stated by learned counsel for the petitioner that confiscation proceeding is pending and the vehicle in question is lying under the open sky in the police station. The seizure list reflects the seizure of 6 litres of Nepali 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 as well as mobile in question be released provisionally in favour of the petitioner on production of ownership and registration with respect to vehicle as well as mobile in question in his name before the District Magistrate, Kishanganj 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 and mobile, a Panchanama would be got prepared by the District Magistrate, Kishanganj wherein the photograph of the vehicle and mobile 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 final order passed in the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

brajesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

