

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4375 of 2019

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Gulam Sarwar @ Sarwar, aged about 31 years (Gender-M), Son of Late Afaque @ Late Md. Afaque, Resident of Village- Kauwa Bhitha, P.S.- Kurlikot, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department, Govt. of Bihar, Patna
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate Kishanganj.
4. The Superintendent of Police, Kishanganj
5. The Officer- in-charge Galgaliya Police Station, District- Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bimal Kumar, 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 : 14-03-2019

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

The petitioner prays for provisional release of the Honda Dream Yug Motorcycle bearing Registration No. BR-37G-4756, Chasis No. ME4JC589BET084074, Engine No. JC58ETE3270985 together with his Mobile Phone and cash of



Rs.6,300/-, which has been seized in connection with Galgaliya P.S. Case No. 67 of 2018 for the offences punishable under Section 30(a) 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 21.750 liters IMFL, Cash of Rs. 6,300/- and Mobile Phone along with the vehicle.

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 together with the seized mobile phone and cash of Rs. 6,300/- be released in favour of the petitioner on production of ownership and registration with respect to vehicle in question in his name before the District Magistrate, Kishanganj 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 District Magistrate, Kishanganj, 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 of the vehicle, the mobile phone and cash of Rs. 6,300/- 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 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	02-04-2019
Transmission Date	N/A

