

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4960 of 2019

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Gauri Mahto @ Gauri Kumar Mahto, Age – about 28 yrs, Gender- Male, S/o
Jugeshwar Mahto R/o Village-Padumkher, P.s. Patahi, Dist East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna
2. The Divisional Commissioner, Tirhut Division, Muzaffarpur
3. The District Magistrate cum Collector, East Champaran at Motihari
4. The Superintendent of Police, East Champaran at Motihari
5. The S.H.O. Dhaka (Pachpakri) Police Station, East Champaran, Motihari
6. The Investigating officer of Dhaka (Pachpakri) P.S. case No. 473/2018
Chiraiya Police Station, East Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh
For the Respondent/s : Mr. Vikash Kumar (SC 11)

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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 : 29-03-2019

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

The petitioner prays for provisional release of the
Honda CB Hornet 160R Motorcycle bearing Registration No.
BR-05T-3181, which has been seized in connection with Dhaka
(Pachpakri) P.S. Case No. 473 of 2018 for the offence
punishable under Section 30(a), 37 (b) of the Bihar Prohibition
and Excise Act.



It is stated by learned counsel for the petitioner that confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 2.1 liters 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 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 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 designated Court below would get 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 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	10.04.2019
Transmission Date	NA

