

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20744 of 2018**

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Jai Ram Tiwary, Son of Late Banarashi Tiwary, Resident of Village- Potma,  
P.S.- Garhwa, District- Garhwa, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The Superintendent of Police, Aurangabad.
4. The S.H.O. Risiup Police Station, District- Aurangabad.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Kamendra Pd. 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 : 15-04-2019**

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

The petitioner prays for provisional release of the  
Bolero (DI Turbo) vehicle bearing Registration No. JH14B1017,  
Engine No. GF94L99235, Chassis No. MA1XA2GFK95  
M77358, which has been seized in connection with Risiup P.S.  
Case No. 43 of 2018 for the offences punishable under Sections  
30 (a) and 38 of the Bihar Prohibition and Excise Act, 2016.

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 354 litres of 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 Collector-cum-District Magistrate, Aurangabad with one surety (local) along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety (local) and the bank guarantee or the original title deed, as the case may be, 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, Aurangabad, 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 production of ownership/registration papers supporting the claim of the petitioner together with one local surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance amount and the undertakings as stated above. This release of the vehicle would, however, be subject to finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the confiscating authority subject to final decision in the confiscation proceedings.



With the observations/directions above, this writ  
petition is allowed.

**(Jyoti Saran, J)**

**( Arvind Srivastava, J)**

Shailendra/-

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