

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21520 of 2018

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Sushil Kumar Sharma, son of Mahendra Sharma, Ward No. 8, Moun,
Simariya, P.S. District- Supaul, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate cum Collector, Supaul.
3. The Superintendent of Police, Supaul.
4. The Superintendent of Police, Excise, Supaul.
5. The S.H.O. of Triveniganj, Police Station, District- Supaul.
6. The Investigating Officer of Triveniganj P.S. Case No. 202/2018.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Yadav
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

No one appears on behalf of the petitioner.

Learned counsel for the State is present.

This writ application is filed for provisional release of TVS motorcycle bearing registration No. BR 50D 8640, which has been seized in connection with Triveniganj P.S. Case No. 202 of 2018 for the offences punishable under sections 30(a), 37(b) and 37(c) of the Bihar Prohibition and Excise Act, 2016.



The allegation against three persons riding the vehicle in question is of drunken driving and in such condition liquor bottled in 'sprite' drink bottle was recovered from the dickey of the motorcycle.

It is informed by learned counsel for the State 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 500 ml. 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 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 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 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 designated Court below 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 of the vehicle 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)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.04.2019
Transmission Date	NA

