

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21387 of 2018

Shivam Kumar, Son of Ranjeet Prasad Yadav @ Fusail Yadav, Resident of Village-Bank, P.O.-Bank, P.S.-Muffasil, District-Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of Excise, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Munger.
4. The Superintendent of Police, Munger.
5. The Officer in Charge, Muffasil Police Station, Munger, District-Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Jha, Advocate
For the Respondent/s : Mr. Vikash Kumar -SC11

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 15-04-2019

None appears on behalf of the petitioner. Learned counsel for the State is present.

The prayer is for provisional release of the Motorcycle bearing Registration No. BR-08C-2179, which has been seized in connection with Muffasil P.S. Case No. 224 of 2018 for the offences punishable under Sections 30/32 of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the State that



confiscation proceeding is yet to be initiated but the seizure list reflects the seizure of 86.40 liters of IMFL.

Having heard learned counsel for the State 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 one surety 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 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, if any, 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 production of ownership/registration papers supporting the claim of the petitioner together with one 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 would, however, be subject to initiation and finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the designated Court below subject to final decision in the confiscation proceedings.



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	24-04-2019
Transmission Date	N/A

