

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4562 of 2019

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Birender Prasad @ Birender Kumar Prasad, aged about 33 years, Male, son of Murli Manohar Prasad, R/o Village Rajapati, P.S. Baikunthpur, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate cum Collector, Saran at Gopalganj.
4. The Senior Superintendent of Police, Saran at Gopalganj.
5. The Station Head Officer Nayagaon Police Station, Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan, 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 : 29-03-2019

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

The petitioner prays for provisional release of the
Mahindra Scorpio bearing Registration No. BR-29 PA 4823,
Engine No. WRJ4C15139, Chasis No. MA1 TA2WR2J2C35456,
which has been seized in connection with Nayagaon P.S. Case
No. 148 of 2018 for the offences punishable under Sections
188, 272, 273 of the Indian Penal Code read along with side



Section 30 (A)/38 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 56.580 liters IMFL.

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 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 finalisation of the confiscation



proceeding. The title deed papers shall remain in safe custody of the 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	09-04-2019
Transmission Date	N/A

