

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4100 of 2019

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Niraj Kumar @ Niraj Sharma, aged about 20 years, (Male), S/o Kishan Sharma @ Keshav Thakur, R/O Vill.- Sonbarsa, Ward no. 3, P.s.- Sonbarsa, Distt.- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Govt. of Bihar, Patna
2. The Collector Sitamarhi
3. The Superintendent of Police Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Jha, Advocate
For the Respondent/s : Mr. Vivek Prasad (GP7)

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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 : 07-03-2019

Heard.

The prayer is for provisional release of the vehicle Pulsar-135 cc Bike bearing Registration No. BR30 Q6776, Chasis No. MD2A17CZ5GWD08483, Engine No. JEZWGD68681, which has been seized in connection with C2 289/2018/370/18 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the State informs that confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list reflects



the seizure of 30.68 liters country liquor.

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 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, Sitamarhi 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 Collector, Sitamarhi, 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 finalization of the confiscation proceeding.

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	16-03-2019
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