

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24124 of 2018

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Raman Kumar, Son of Brahmdeo Prasad Yadav, resident of Mohalla-
Sahebganj (Kumar Sarai Lane) Near Church School, Police Station- Vishwa
Vidyalaya, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Divisional Commissioner, Excise Department, Bhagalpur.
3. The District Magistrate, Bhagalpur.
4. The Sub- Inspector, Excise Excise Circle, Bhagalpur, District- Bhagalpur.
5. The Officer-In- Charge, Police Station- Parbatta, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vikram Singh, Advocate
For the Respondent/s : Mr.Anil Kr.Sinha

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 26-04-2019

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the state.

The petitioner prays for provisional release of the
Colour PAWHITE bearing Registration No. BR-10-X-8418, Chasis
No. MA3NYFB1SHH271968, Engine No. D13A5494679, which
has been seized in connection with Parbatta P.S. Case No. 35 of



2018 for the offences punishable under Sections 25(1-b)a/26/35 of the Arms Act and Sections 30(A)/138(i) 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 2 bottles containing 775 and 375 ml. of IMFL.

Learned counsel for the State has informed that apart from provision of the Excise Act, the petitioner has violated the provision of Arms Act, 1961.

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 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, 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 submission of the sureties and the undertakings as stated above. This release 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)

(Anjani Kumar Sharan, J)

Nasimul/mrl.

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03-05-2019
Transmission Date	N/A

