

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24298 of 2018

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Khiru Sah @ Ashok Sah, Son of Bhukhan Sah, Resident of Village Parasi,
P.O. Garahi, P.S. Khaira, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Bihar, Prohibition and Excise Department, Bihar, Patna.
2. The Excise Commissioner, Bihar Prohibition and Excise Department, Bihar, Patna.
3. The Excise Officer, Bihar Prohibition and Excise Department at Jamui.
4. The District Magistrate, Jamui.
5. The Superintendent of Police, Jamui.
6. The Officer In Charge of Khaira Police Station, District- Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr.Vivek Prasad

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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 : 29-04-2019

No one appears on behalf of the petitioner. Learned
counsel for the State is present.

The prayer is for provisional release of the T.V.S.
XL100 Motorcycle bearing Registration No. BR46F2 657, Chasis
No. MD621EP15J1B14309, Engine No. DP1BJ1848833, which
has been seized in connection with Khaira P.S. Case No. 293 of
2018 for the offences punishable under Sections 272, 273 of
the Indian Penal Code and Sections 30(a)/38(i) of the Bihar
Prohibition and Excise Act.

Learned counsel for the State informs that



confiscation proceeding is yet to be initiated but the seizure list reflects the seizure of 18 liters of 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 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/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07-05-2019
Transmission Date	N/A

