

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4493 of 2019

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Samir Kumar @ Ladu Singh, aged about 22 years, Male, S/o Shambhu Singh,
Resident of village-Choube Ambara, P.S. Saraiya, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise and Prohibition, Govt. of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Superintendent of Police, Muzaffarpur
4. The Officer incharge of Motipur Police Station, Muzaffarpur.

... .. Respondent/s

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Appearance :

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

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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 : 22-04-2019

No one appears on behalf of the petitioner.

Mr. Kumar Ravish, learned AC to GA-1 informs that apart from recovery of narcotic as well as arms punishable under the Narcotic Drugs and Psycotropic Substances Act as well as the Arms Act respectively, there was recovery of 35 liters of Spirit from the vehicle in question. He further informs that confiscation proceeding has not yet been started.

The prayer is for provisional release of the L.M.V.
Hyundai Grand i10 (Car) bearing Registration No. BHR 06A



8523, Chassis No. MALA851CLHM600852, Engine No. G4LAHM344644, which has been seized in connection with Motipur P.S. Case No. 125 of 2017 for the offences punishable under Sections 399, 402, 412 of the Indian Penal Code and Sections 25 (1-b) a, 26, 35 of the Arms Act and Sections 20, 22 N.D.P.S. Act and Sections 30(a), 37(a) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the State 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 35 liters of Spirit.

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	24-04-2019
Transmission Date	N/A

