

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24907 of 2018

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Vijay Kumar @ Vijay Kumar Rai, son of Sitaram Rai, r/o village- Rasalpur,
Ward No. 9, P.S.- Dumra, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate, Sitamarhi
3. The Superintendent of Excise, Sitamarhi
4. The Sub-Inspector, Excise, Circle Sitamarhi, District- Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr.Kumar Manish -SC5

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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 Hero Passion Pro Motorcycle bearing Registration No. BR30R-3694, which has been seized in connection with Complaint Case No. C2-323 of 2018 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

Learned counsel for the State informs that confiscation proceeding is pending but the seizure list reflects



the seizure of 27.360 liters of IMFL.

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 District Magistrate, 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 District Magistrate, 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)

(Anjani Kumar Sharan, J)

Nasimul/-

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

