

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4189 of 2019

=====

Mohd. Khalil, age 21 years (M), S/o Nasimuddin @ Hazi Nasimuddin @ Md. Nasin, Resident of Village-Mohania, P.O. Palasi, Dist.-Araria

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna
2. The Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna
3. The District Magistrate Araria
4. The Superintendent of Police, Araria
5. The Station House Officer, Palasi, Police Station, Palasi, Araria

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh, Advocate
For the Respondent/s : Mr. Anil Kr. Sinha (GA1)

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 11-03-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

This application has been filed seeking provisional
release of the Scorpio vehicle bearing Registration No. HR-
51AL- 2500, Chasis No. MA1TA2HFNA2L22121, Engine No.
HFA4L45130, which has been seized in connection with Palasi
P.S. Case No. 334 of 2018 for the offence punishable under
Sections 272/273 of the Indian Penal Code and Section 30(a) of
the Bihar Excise and Prohibition Act, 2016 (hereinafter referred



to as 'the Act').

Learned counsel for the petitioner submits that for recovery of 1936 bottles of Cough Syrup, the vehicle in question has been seized because according to the respondent, it is capable of being used as a substitute for an intoxicant. It is submitted that there is no information about confiscation proceeding.

Learned counsel for the State has not been able to clarify that whether or not the cough syrup so seized comes in the prohibited category of intoxicant or spirit or liquor or fermented liquor or illicit liquor under the Bihar Prohibition and Excise Act, 2016.

Having heard learned counsel for the parties and in the given facts and circumstances where no confiscation proceeding is presently pending and the seizure is of cough syrup, let the vehicle in question be released in favour of the petitioner on the petitioner's producing the document of ownership and registration in his name before the Court below with two sureties to the extent of the value of the vehicle as indicated in the insurance document and an undertaking that he will not create third party rights during pendency of the proceeding.



The release shall be allowed within a period of 14 days from the date of production of ownership papers before the Court below with the sureties along with the undertaking as stated above. This release, however, would be subject to the final order passed in the confiscation proceeding, if any.

The petitioner shall be at liberty to raise the issues whether or not the seized goods comes within the prohibited jurisdiction of ‘the Act’.

The writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Nasimul/Shailendra

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02-04-2019
Transmission Date	N/A

