

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4225 of 2019

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Gullu Kumar, aged about 26 years (Male), son of Late Upendra Prasad Singh,
resident of village - Ram Nagar, P.O. + P.S. - Phulwari Sharif, District - Patna.
... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna.
 2. The Divisional Commissioner, Excise, Patna
 3. The Collector- cum - District Magistrate, Patna
 4. The Superintendent of Police, Patna
 5. The Excise Superintendent, Sitamarhi
 6. The Officer In - Charge, Phulwari Sharif, P.S.+ District - Patna.
- Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar, Advocate
For the Respondent/s : Mr. Kumar Manish (SC5)

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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 appearing on behalf of the state.

The petitioner prays for provisional release of the
Bajaj Pulsar Motorcycle bearing Registration No. BR01DV
8130, Chasis No. MB 2A11CY1JRC06124, Engine No.
DHYRJC 79184, which has been seized in connection with
Phulwari Sharif P.S. Case No. 771 of 2018 (Spl. Excise Case
No. 9037 of 2018) for the offences punishable under Section
30(a) of the Bihar Prohibition and Excise Act.



It is stated by learned counsel for the petitioner that confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 9 liters IMFL.

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 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 Collector-cum-District Magistrate, Patna 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 Collector-cum-District Magistrate, Patna, 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)

(Arvind Srivastava, J)

Nasimul/Shailendra

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26-03-2019
Transmission Date	N/A

