

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5269 of 2019

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Kundan Kumar, Male, aged about 26 years, Son of Jagdish Saw, R/V
Mirzaganj, P.S. Sikandra, Distt. Jamui

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition Government of Bihar.
2. The Excise Commissioner Bihar, Patna
3. The District Collector-cum-District Magistrate, Jamui
4. The State of Bihar through the Director General of Police, Bihar
5. The Superintendent of Police, Jamui
6. The Station House Officer, Sikandra Police Station, Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha, Advocate
For the Respondent/s : Mr. Vivek Prasad (GP7)

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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 : 09-04-2019

None appears on behalf of the petitioner. Learned
counsel for the State is present.

The prayer is for provisional release of the LIVO
(HONDA MOTORCYCLE and SC) bearing Registration No. BR-46F-
2964, Chasis No. ME4JC715AJ T113667, Engine No. JC71ETIL
77001, which has been seized in connection with Sikandra P.S.
Case No. 310 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 State that
confiscation proceeding is yet to be initiated but the seizure list



reflects the seizure of 10 liters of Mahua.

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)

(Arvind Srivastava, J)

Nasimul/Manish

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19-04-2019
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