

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4091 of 2019

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Deepak Prasad (Male) aged about 34 years, S/o Shambhu Nath Prasad @ Shambhav Nath Prasad, Resident of Rabindra Nagar, Burnpur Road, Hirapur, Burdwan, West Bengal. At present resides at TCP Gate, Nagaland, Kohima-797001

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Govt. of Bihar, Patna
2. The Director General of Police Bihar, Patna
3. The District Magistrate-cum-Collector Vaishali at Hajipur
4. The S.H.O. Sadar Police Station, Vaishali at Hajipur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Nikesh
For the Respondent/s : Mr. Anil Kr. Sinha (GA1)

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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 : 07-03-2019

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

The petitioner prays for provisional release of the
Truck (Container) bearing Registration No. NL01G 2675,
Engine No.01A82829865TRCBE212010, Chasis No.MAT4472
06A3A 00739, which has been seized in connection with Sadar
P.S. Case No. 618 of 2017 for the offence punishable under
Section 30 (a) of the Bihar Prohibition and Excise Act, 2016.



It is stated by learned counsel for the petitioner that he has no information about the initiation of confiscation proceeding. The vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 1350 liters of IMFL.

Having heard learned counsel for the parties and taking note of the nature of seizure made, 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 one (local) surety along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety and the bank guarantee or the original title deed, as the case may be, 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 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 production of ownership/registration papers supporting the claim of the petitioner together with one surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance amount and the undertakings as stated above. This release would, however, be



subject to initiation and finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the designated Court below subject to final decision in the confiscation proceedings.

With the observations/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.03.2019
Transmission Date	NA

