

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5062 of 2019

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Manik Shekh S/o Afajuddin Shekh R/o Village-East Aptair, P.O. and P.S.-
Hilli, District-Dakshin Dinajpur, West Bengal

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department,
Government of Bihar, Patna
2. The District Magistrate-cum-Collector Araria
3. The Senior Superintendent of Police Araria
4. The S.H.O. Kursakanta Police Station, Araria

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Nishant Kumar Sinha
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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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

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

The petitioner prays for provisional release of the
vehicle(Mahendra and Mahindra Bolero pick-up F/BBSII, light
goods vehicle) bearing Registration No. WB-61A-4794, which has
been seized in connection with Jokihat P.S. Case No. 41 of 2018 for
the offences punishable under Section 30(a) and 38(1) of the Bihar
Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that
confiscation proceeding is yet to be initiated and the vehicle is lying



under the open sky in the police station. The seizure list reflects the seizure of 759.600 liters of foreign liquor.

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 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 one 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 further.

(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 Panchnama would be 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 document and the undertakings as stated above. This would, however, be subject to the final order passed in the confiscation proceeding as and when initiated.

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

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.05.2019
Transmission Date	NA

