

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5587 of 2019

Kapil Ray alias Kapal Ray son of Mewalal Ray Resident of Village Paroha,
P.O. Jafrabad, P.S. Raghobpur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
2. The District Magistrate Vaishali.
3. The Superintendent of Excise Vaishali.
4. The Superintendent of Police Vaishali.
5. The Officer-in- Charge of Bidupur Police Station District- Vaishali.
6. Investigating Officer, Bidupur P.S. Case No. 328/18, Bidupur P.S., District- Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar
For the Respondent/s : Mr.Anil Kumar Singh (Ga 1)

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
(Bolero SLE) bearing Registration No. BR-061-6760, Engine No.
GAB4444958, Chasis No. MAIPL2GAH92-A71060, which has been
seized in connection with Bidupur P.S. Case No. 328 of 2018 for the
offences punishable under Sections 379 and 420 of the Indian Penal
Code read along with side Section 30(a) 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 150 liters of illicit 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

