

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6320 of 2019

1. Mohan Rai alias Mani Mohan Ray, aged about 46 years (Male), Son of Late Ramakant Rai, Resident of Village-Eedilpur @ Eedulpur, Barwe, Post Office-Barwe, Police Station-Dariyapur, District-Saran
2. Jainath Rai @ Jagnath Rai, aged about 49 years (Male), Son of Late Chaturi Rai, Resident of Village-Eedilpur @ Eedulpur, Barwe, Post Office-Barwe, Police Station-Dariyapur, District-Saran

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The District Magistrate, Saran at Chapran
3. The Superintendent of Police, Saran at Chapra
4. The Excise Superintendent, Saran at Chapra
5. The Excise Inspector, Chapra, Saran
6. The Station House Officer, Dariyarpur Police Station, District-Saran
7. Meraj Khan, Son of not known A.S.I. Dariyapur Police Station, District-Saran

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 07-05-2019

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the state.

The petitioners pray for provisional release of two Motorcycles bearing Registration Nos. BR31H 9119 and BR 04R -6670, which have been seized in connection with Dariyapur P.S. Case No. 407 of 2018 for the offences punishable under Sections 30/30(a) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the petitioners that



confiscation proceeding is yet to be initiated and the vehicles are lying under the open sky in the police station. The seizure list reflects the seizure of 20 liters of country liquor and 2 liters of country liquor respectively.

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 vehicles in question be released provisionally in favour of the petitioners on production of ownership and registration with respect to vehicles in question in their name before the Court below with two sureties each, to the extent of the value of the respective vehicles, as indicated in the insurance document. The petitioners while submitting the sureties shall also individually furnish the following affidavits/undertakings:

(i) That the vehicles 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 petitioners shall not indulge in creating any third party right or interest in respect of the vehicles during the pendency of the confiscation proceeding, if any, and shall not alienate the vehicles during this period.

(iii) The petitioners shall furnish an undertaking to



produce the vehicles before the confiscating authority as and when required.

(iv) Prior to release of the vehicles, a *Panchanama* would be got prepared by the designated Court below, wherein the photograph of the vehicles shall be taken and will be certified by the petitioners and the same shall be kept on record so that in future, if so required, it may be used as a secondary evidence. The petitioners 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 of the vehicles 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)

(Anjani Kumar Sharan, J)

Nasimul/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16-05-2019
Transmission Date	N/A

