

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7353 of 2019

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1. Vikas Kumar, son of Kamal Shah, Resident of Village- Morauna, Durgadih, P.S.- Bikramganj, District- Rohtas.
 2. Kamal Shah, son of Late Din Dayal Shah, Resident of Village- Morauna, Durgadih, P.S. Bikramganj, District Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The Superintendent of Police, Excise, Rohtas, District- Rohtas.
4. The Officer-in- Charge, Bikramganj P.S., P.S.- Bikramganj, District- Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar Singh, Adv.
For the Respondent/s : AC to GA-1

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

Date : 16-05-2019

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

While the the petitioner no.1 prays for provisional release of the Tempo bearing Engine No. A3HO759077, Chasis No. MA1LE2FYSD5J32377, petitioner no.2 prays for provisional release of Motorcycle bearing Registration No.BR24M-3917, Chasis No.MBLHA10ASCHL30685, Engine No.HA10ELCHL06203, which have been seized in connection with Bikramganj P.S. Case No.252 of 2018 for the offences punishable under sections 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioners that while 59.82 litres of Indian Made Foreign Liquor has been seized from the Tempo, 27 litres of Indian Made Foreign Liquor has been seized from



the motorcycle; the confiscation proceeding is yet to be initiated and the vehicles are lying under the open sky in the police station. The seizure list supports the seizure of 59.82 litres and 27 litres of Indian Made Foreign Liquor from the tempo and motorcycle respectively.

In so far as tempo is concerned, 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 no.1 on production of ownership and registration papers with respect to vehicle in question 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.

In so far as the motorcycle is concerned, the same be released provisionally in favour of petitioner no.2 on production of ownership and registration with respect to the 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 petitioners while submitting their individual surety and the Bank Guarantee or the original title deed, as the case may be, shall also furnish the following affidavits/undertakings, individually:

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

(iii) The petitioners shall furnish an undertaking to produce the vehicle(s) before the confiscating authority as and when required.

(iv) Prior to release of the vehicle(s), a Panchanama would be prepared by the designated court below wherein the photograph of



the vehicle 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 their individual undertaking not to challenge the said Panchanama in course of trial.

In so far as the release of Tempo is concerned, the same shall be allowed within a period of 14 days from the date of production of ownership/registration papers supporting the claim of the petitioner no.1 together with one surety along with the Bank Guarantee or title deed of immovable property situated in the district, to the extent of the value of the vehicle as indicated in the insurance document and the undertaking, as stated above. This would, however, be subject to the final order passed in 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.

In so far as the release of motorcycle is concerned, the same shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above, which would however be subject to initiation and finalization of the confiscation proceeding, if any.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

skpathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.06.2019
Transmission Date	NA

