

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4651 of 2019

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Shabaz Mahmud @ Shahbaz Mahmod, aged about 35 years, Male, son of
Mahmood Alam r/o Darwar Tola, P.S. Sakari, District Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Excise, Patna, Bihar.
2. The District Magistrate, Madhubani.
3. The Incharge Police Station, Sakari, District Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr. Vivek Prasad (GP7)

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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 : 29-03-2019

None appears on behalf of the petitioner. Learned
counsel for the State is present.

The prayer is for provisional release of the
Motorcycle bearing Registration No. BR-32N 2239, Chasis No.
MD2A11CZ6FCA13020, Engine No. DHZCFA 88784, which
has been seized in connection with Sakari P.S. Case No. 162 of
2018 for the offences punishable under Section 30(a) of the
Bihar Prohibition and Excise Act.

Learned counsel for the State informs that
confiscation proceeding is pending and the vehicle is lying
in the police station. The seizure list reflects the seizure of 7.2



liters of foreign liquor.

Having heard learned counsel for the State and taking note of the nature of seizure made as well as the fact that the confiscation proceeding is pending, 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 District Magistrate, Madhubani with two sureties to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the sureties 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 confiscating authority 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 submission of the sureties and the undertakings as stated above. This release would, however, be subject to finalization of the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Nasimul/Shailendra

AFR/NAFR	NAFR
CAV DATE	N/A
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