

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4892 of 2019

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Somar Saw, Male, aged about 36 years, son of Vishnu Sao, resident of village
Maksoodpur, P.s.- Fatuha, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise, Govt. of Bihar,
Patna
2. The District Magistrate, Patna
3. The Senior Superintendent of Police Rural, Patna
4. The Officer Incharge Khusrupur, P.s. and Distt.- Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar

For the Respondent/s : Mr.Kumar Manish (SC 5)

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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 : 08-04-2019

C.W.J.C. No. 4892 of 2019

with

I.A. No. 01 of 2019

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

The petitioner prays for provisional release of the



Maestro Scooty bearing Engine No. JE33ADJGG08622, Chasis No. MBEJFW013JGG09710 together with Rs. 13,000/- recovered from the possession of the petitioner, which have been seized in connection Khusrupur P.S. Case No. 326 of 2018 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the petitioner that confiscation proceeding is yet to be initiated and the vehicle is lying in the police station. The seizure list reflects the seizure of 8.250 liters of I.M.F.L.

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 together with Rs. 13,000/- seized from the petitioner 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 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, as and when initiated, 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, the designated Court below would get prepared a *Panchanama* 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 initiation and finalization of the confiscation



proceeding.

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

Interlocutory application also stands disposed of.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.04.2019
Transmission Date	NA

