

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6189 of 2019

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Habibullah Ansari @ Kallu, Son of late Hakim Miya, aged about 40 years (Male), Resident of Village-Khairatiya, Police Station-Mirganj, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Registration, Prohibition and Excise, Government of Bihar, Patna
2. The Collector/ District Magistrate, Siwan District-Siwan
3. The Excise Superintendent, Siwan District-Siwan
4. The Superintendent of Police, Siwan District-Siwan

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Umesh Kumar Singh, Advocate
For the Respondent/s : Mr.Anil Kr. Sinha (GA1)

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

Date : 02-05-2019

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

The petitioner prays for provisional release of the Scorpio bearing Registration No. BR29PA 4811, Chasis No. MA1TA2WR2J2C35353, Engine No. WRJ4C11649, which has been seized in connection with Siwan Muffasil P.S. Case No. 729 of 2018 for the offences punishable under Sections 272 and 273 of the Indian Penal Code and Section 30 (a) and 41 (i) of the Bihar Excise (Amendment) Act, 2018.



It is stated by learned counsel for the petitioner that confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 1.8 liters IMFL.

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 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, Siwan 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 District Magistrate, Siwan 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 of the vehicle would, however, be subject to finalization of the confiscation proceeding.

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

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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