

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5173 of 2019

=====

Md. Asir Ali, sex male, aged about 32 years, Son of Late Jameer Khan,
resident of Village Khalispur, P.S.- Siwan, Mufassil, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Inspector General of Police, Bihar, Patna.
5. The District Magistrate/Collector, Siwan.
6. The Superintendent of Police, Siwan.
7. That Excise Superintendent of Police, Siwan.
8. The Officer-in- Charge of Siwan Muffasil (Dhanauti O.P.) Police Station
District- Siwan.
9. The Investigation Officer of Siwan (Dhanauti O.P.) P.S. Case No. 485/18
dated 26.08.2018, Siwan Mufasil (Dhanauti O.P.) Police Station, Siwan.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Javed Aslam, Advocate
For the Respondent/s : Mr. Anil Kumar Sinha (GA 1)

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-04-2019

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

The petitioner prays for provisional release of the TVS
Apachi RTR white bearing Registration No. B.R.29AE-5888, Chasis No.
MD634BE42J2D56430, Engine No. BE4DJ2754635, which has been
seized in connection with Siwan Muffasil (Dhanauti O.P.) P.S. Case
No. 485 of 2018 for the offences punishable under Sections 272,



273, 308/34 of the Indian Penal Code and Sections 30(a), 41(i) of the Bihar Prohibition and Excise Act.

Learned counsel appearing on behalf of the petitioner submits that he has no information about initiation of the confiscation. It is stated that the vehicle is lying in the police station. The seizure list reflects the seizure of 18.240 liters of country liquor.

Having heard learned counsel for the parties and taking note of the nature of seizure made, 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 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, if any, 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 designated Court below 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.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Nasimul/Manish

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17-04-2019
Transmission Date	N/A

