

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5461 of 2019

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Ganesh Jha @ Ganesh Chandra Jha aged about 41 years (Male), S/o Late
Atiya Nandan Jha @ Ati Nandan Jha, R/o Vill.- Ganouli, P.S.- Andhrathadhi
Distt.- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Prohibition Act, Govt. of Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Superintendent of Police, Madhubani.
4. The Officer -in- Charge, Andhrathadhi, Distt.- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha

For the Respondent/s : Mr. Kumar Manish (SC5)

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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 : 12-04-2019

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

The petitioner prays for provisional release of the
Hero Honda CD Deluxe Motorcycle bearing Registration No.
BR32D7004, Chassis No. MBLHA11EH99G14955, Engine No.
HA11EA99G26924, which has been seized in connection with



Andhrathadhi P.S. Case No. 115 of 2018 for the offences punishable under Sections 272/273 of the Indian Penal Code and section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that the motorcycle is registered in the name of the father of the petitioner as manifest from the Registration Certificate enclosed at Annexure-2 series. In reference to the death certificate, which is also a part of Annexure-2 series, he further submits that the father of the petitioner had died. He also submits that confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 1.00 liter of country liquor.

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 should the petitioner apply for the transfer of the vehicle in his own name and produces proof of such application together with a copy of registration certificate before the designated Court below with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document, the vehicle in question be released provisionally in favour of the petitioner. 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 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 of the vehicle 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)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.04.2019
Transmission Date	NA

